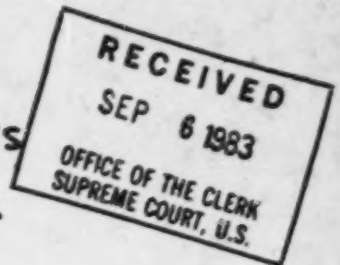


No. 83-5431

SUPREME COURT OF THE UNITED STATES
OCTOBER TERM, 1983



BARBARA A. COJANIS

PETITIONER - APPELLEE

VS.

PETER J. COJANIS

RESPONDENT - APPELLANT

PETER J. COJANIS

PLAINTIFF - APPELLANT

VS.

WILLIAM E. DRUKE, GARY R. POPE

JUDGES, PIMA COUNTY, ARIZONA

PETER J. COJANIS

PLAINTIFF - APPELLANT

VS.

LEWIS RAY SPRADLIN, MARY V. SPRADLIN

PHILIP FAHRINGER, EDNA BLANK

JAMES D. HATHAWAY, LAWRENCE

HOWARD, BEN C. BIRDSEILL, ELIZABETH URBAN

FRITZ, RONALD W. SOMMER, ERIC CANAN

STATE OF ARIZONA

DEFENDANTS - APPELLEES

APPEAL FROM THE FINAL ORDER OF
THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

JURISDICTIONAL STATEMENT

ERIC CANAN ESQ.

~~ANTHONY D. CHUNG ESQ.~~

RONALD W. SOMMER ESQ.

STEVEN NEELY ESQ.

PETER J. COJANIS, APPELLANT

% SANTA CRUZ CO JAIL

NOGALES ARIZONA 85621

TEL. 602-287-7108

IN PROPRIO PERSONA

NO.

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QUESTIONS PRESENTED ON APPEAL

I

DID THE UNITED STATES COURT OF APPEALS INVALIDATE THE REMOVAL ACT PASSED BY CONGRESS IN 1949 WHEN WHEN THEY DENIED APPELLANTS REQUESTED INJUNCTION AGAINST STATE COURT PROCEEDINGS, SUCH PROCEEDINGS IN VIOLATION OF REMOVAL STATUTES SECTIONS 1446(R) AND 1450 WHICH PROHIBIT ANY STATE COURT PROCEEDINGS UNTIL OR UNLESS THE CASE IS REMANDED.

II

SHOULD THE ARIZONA "NO FAULT" DIVORCE LAW BE DECLARED UNCONSTITUTIONAL BECAUSE SUCH LAW VIOLATES THE "FREE EXERCISE CLAUSE" OF THE FIRST AMENDMENT OF THE UNITED STATES CONSTITUTION SINCE THE STATE OF ARIZONA HAS PASSED A LAW WHICH CAN TAKE A PERSON'S RIGHT TO FREELY EXERCISE WHAT HE BELIEVES IN (MARRIAGE) WITHOUT HAVING TO SHOW THAT HE HAS BROKEN A LAW OR HAS DONE ANY WRONG TO JUSTIFY THE LOSS OF SUCH RIGHT.

III

SHOULD THE ARIZONA "NO FAULT" DIVORCE LAW BE DECLARED UNCONSTITUTIONAL BECAUSE SUCH LAW UNLAWFULLY DISRUPTS SOCIETY SINCE WITH NO FAULT OR CAUSE NEEDED TO BE SHOWN SUCH LAW FOSTERS DIVORCES TO OCCUR AND IT IS WIDELY HELD THAT A BROKEN HOME DISRUPTS SOCIETY.

IV

DID THE STATE OF ARIZONA ORDERING APPELLANT'S SUPERSEDES STAY DISSOLVED, PRIOR TO A DETERMINATION OF THE CONSTITUTIONALITY OF THE "NO FAULT" DIVORCE LAW PROVIDE THE GROUNDS FOR THE CASE TO BE REMOVED TO THE FEDERAL COURTS.

V

WAS ARTICLE I SECTION 10 OF THE UNITED STATES CONSTITUTION VIOLATED BY THE STATE OF ARIZONA WHEN APPELLANT'S PROPERTY OF SOME (\$275,000.00) TWO HUNDRED AND SEVENTY FIVE THOUSAND DOLLARS WAS TAKEN BY COURT ACTIONS WHEN SUCH PROPERTY WAS PROTECTED ON APPEAL OF THE DIVORCE CASE BY A SUPERSEDES STAY.

QUESTIONS PRESENTED (CON)

WHETHER THE STATE COURT ORDERS OF MARCH 30, 1982
NOVEMBER 2, 1982 AND NOVEMBER 9, 1982 ARE VOID
BECAUSE SUCH ORDERS WERE ISSUED BY A COURT IN
WANT OF JURISDICTION IN VIOLATION OF REMOVAL
STATUTES SECTIONS 1446(C) AND 1450

VII

SHOULD THIS COURT GRANT THE APPELLANT, WHO
HAS BEEN UNLAWFULLY HELD IN VIOLATION OF
FEDERAL LAWS FOR OVER 60 DAYS A WRIT OF
HABEAS CORPUS.

OPINIONS DELIVERED BELOW

APRIL 1980 ARIZONA COURT OF APPEALS... APPENDIX 1, 2, 3

OCTOBER 1982 U.S. DISTRICT COURT ORDERING

PETITION FOR REMOVAL CIV 82-1335-PHX

DISMISSED FOR LACK OF JURISDICTION

CIVIL DOCKET SHEET ----- APPENDIX 4

JUNE 13, 1983 U.S. COURT OF APPEALS DENIAL

OF APPELLANT'S PETITION OF

APRIL 18, 1983 REQUESTING

INJUNCTIVE RELIEF ----- APPENDIX 5

JUNE 13, 1983

U.S. COURT OF APPEALS DENIAL

OF APPELLANT'S JUNE 1, 1983

REQUEST FOR INJUNCTIVE

RELIEF # 83-7359 ----- APPENDIX 6

JULY 5, 1983 U.S. COURT OF APPEALS DENIAL

OF APPELLANT'S MOTIONS OF

JUNE 15, 1983 REQUESTING

INJUNCTIVE RELIEF ----- APPENDIX 7, 8

JURISDICTION

ON AUGUST 23, 1982 PURSUANT TO 28 USC SECTIONS 1441 AND 1443 APPELLANT REMOVED PIMA COUNTY SUPERIOR COURT CASE D-26060 TO THE UNITED STATES DISTRICT COURT IN PHOENIX ARIZONA, NO. CIV 82-1335-PHX WITH THE GROUNDS FOR REMOVAL BASED ON A CONSTITUTIONAL QUESTION PURSUANT TO 28 USC SECTION 1331 NAMELY AS TO WHETHER THE ARIZONA "NO FAULT" DIVORCE STATUTE WAS UNCONSTITUTIONAL.

REMOVAL WAS NECESSARY BECAUSE OF THE CONDUCT OF THE STATE COURT ORDERING THE SUPERSEDEAS STAY DISSOLVED AND THE MARRIAGE DISSOLVED, ON MARCH 29, 1982 AND THAT IF APPELLANT DID NOT REMOVE THE CASE THE ISSUE AS TO WHETHER THE DIVORCE LAW WAS UNCONSTITUTIONAL WOULD BECOME MOOT UPON THE STATE COURT'S DENIAL OF APPELLANT'S MOTIONS FOR NEW TRIAL WHICH ~~CONTESTED~~ CONTESTED THE ORDER DISSOLVING THE SUPERSEDEAS STAY PRIOR TO A DETERMINATION BEING MADE BY THE ARIZONA SUPREME COURT AND ALSO CONTESTED THE VALIDITY OF THE MARCH 29, 1982 HEARING BEING CONDUCTED BY A COURT IN WANT OF JURISDICTION AND THEREFORE VOID. SUCH ISSUES WERE PENDING IN MOTIONS FOR NEW TRIAL WHEN THE CASE WAS REMOVED TO THE FEDERAL COURT.

ON OCTOBER 26, 1982 THE U.S. DISTRICT COURT'S JUDGMENT DISMISSED THE CASE FOR LACK OF JURISDICTION AND APPELLANT APPEALED ON NOVEMBER 1, 1982 SEE DOCKET SHEET CIV 82-1335 APPENDIX 4 THE COURT OF APPEAL NO 82-5908 ON JULY 5, 1983 ISSUED AN ORDER DENYING APPELLANT'S JUNE 15 MOTIONS REQUESTING INJUNCTIVE RELIEF AND ENLARGEMENT OF TIME SEE APPENDIX 8 AND 9 ON JULY 18, 1983 APPELLANT FILED HIS NOTICE OF APPEAL TO THIS COURT APPENDIX 10

JURISDICTION (CONTINUED)

THE STATUTORY PROVISIONS WHICH CONFER JURISDICTION ON THIS COURT ARE SECTIONS 1252 AND 1253

PETITIONER CONTENDS THAT AN APPEAL TO THIS COURT UNDER SECTION 1252 SHOULD BE PERMITTED BECAUSE THE APPELLATE COURT'S DECISION OF JULY 5, 1983, DENIAL OF INJUNCTIVE RELIEF, INVALIDATED THE 1949 ACT OF CONGRESS WHICH PROVIDED A STATUTORY INJUNCTIVE RELIEF PURSUANT TO REMOVAL STATUTES SECTIONS 1446(e) AND 1450 WHICH PROHIBIT ANY FURTHER STATE COURT PROCEEDINGS UNTIL OR UNLESS THE CASE IS REMANDED OR IN THE INSTANT CASE UNTIL THE APPEAL WAS DISMISSED. THE APPELLATE COURT WAS OBLIGATED BY LAW TO FOLLOW THIS INTENT OF CONGRESS AND ISSUE THE NECESSARY ORDERS. BECAUSE THE APPELLATE COURT FAILED TO ISSUE THE ORDERS, THE STATE COURT INCARCERATED HIM FOR (60) SIXTY DAYS BASED ON THE DIVORCE ORDERS WHICH APPELLANT ALLEGED WERE VOID IN HIS MOTIONS FOR NEW TRIAL WHICH WERE PENDING WHEN APPELLANT REMOVED THE CASE TO THE FEDERAL COURTS. AS A RESULT OF THE APPELLATE COURT TO ^{FAILURE} ISSUE THE REQUESTED INJUNCTION APPELLANT'S INCARCERATION PREVENTED HIM FROM PREPARING AND FILING HIS BRIEF WITHIN THE JULY 5, 1983 COURT OF APPEALS TIME LIMIT OF 14 (FOURTEEN) DAYS FROM THE 5TH OF JULY 1983 OR THE APPEAL WOULD BE DISMISSED BY THE CLERK SINCE THE ORDER STATED "THAT NO FURTHER EXTENSIONS WOULD BE GRANTED" AND WITH THE IMPOSSIBILITY OF PREPARING AN ADEQUATE BRIEF IN JAIL WITH NO FACILITIES LAW BOOKS OR DOCUMENTS, APPELLANT HAD NO OTHER REMEDY AT LAW BUT TO FILE HIS NOTICE OF APPEAL TO THIS COURT, WHICH HE DID SO, AND WHICH THE U.S. COURT OF APPEALS MARKED RECEIVED ON JULY 18, 1983.

APPEAL PURSUANT TO SECTION 1253
APPELLANT FURTHER SUBMITS THAT AN APPEAL

JURISDICTION CONTINUED

SHOULD BE PERMITTED PURSUANT TO SECTION 1253 SINCE AN INJUNCTION (STATUTORY) WAS DENIED AND THE ISSUE WAS SUCH THAT IT SHOULD HAVE BEEN HEARD AND DETERMINED BY A DISTRICT COURT OF THREE JUDGES, SINCE IT WAS AN ISSUE CONCERNING THE CONSTITUTIONALITY OF A STATE STATUTE.

APPELLANT FURTHER SUBMITS THAT THIS COURT SHOULD ACCEPT JURISDICTION OF THIS CASE BECAUSE THE DISTRICT COURT'S ORDER OF A DISMISSAL (RATHER THAN REMAND) CREATED A CRITICAL SITUATION THAT SHOULD COMPEL THIS COURT TO ACCEPT JURISDICTION FOR IF THIS COURT REFUSED JURISDICTION APPELLANT WOULD THROUGH NO FAULT OF HIS OWN, BE DENIED HIS RIGHT, PROVIDED BY THE UNITED STATES CONSTITUTION, TO AN APPEAL SINCE THIS COURT IS THE LAST COURT HE CAN APPEAL TO, AND HIS ISSUE WOULD NEVER BE HEARD BY A COURT.

CONSTITUTIONAL AND STATUTORY PROVISIONS

THE CONSTITUTIONALITY OF THE ARIZONA "NO FAULT DIVORCE STATUTE INVOLVES THE VIOLATION OF THE "FREE EXERCISE CLAUSE" OF THE FIRST AMENDMENT OF THE UNITED STATES CONSTITUTION WHICH STATES TO WIT:

"CONGRESS SHALL MAKE NO LAW RESPECTING AN ESTABLISHMENT OF RELIGION OR PROHIBITING THE FREE EXERCISE THEREOF."

THE AUTHORITY SUPPORTING THE FOREGOING IS REYNOLDS V. UNITED STATES 98 U.S. 145, 25 L. ED 244 WHERE RELIGIOUS FREEDOM IS DEFINED BY REFERENCE TO THE WRITINGS OF THOMAS JEFFERSON. THIS COURT AT PAGE 163 STATED:

"AT THE NEXT SESSION THE PROPOSED BILL WAS NOT ONLY DEFEATED BUT ANOTHER, "FOR ESTABLISHING RELIGIOUS FREEDOM," DRAFTED BY MR. JEFFERSON WAS PASSED. 1 JEFFERSONS, 45; 2 HOWISON, HIST. OF VA 298. IN THE PREAMBLE OF THIS ACT (12 HENNING'S STAT 84)

CONSTITUTIONAL AND STATUTORY PROVISIONS CONT
RELIGIOUS FREEDOM IS DEFINED: AND AFTER A RECITAL
"THAT TO SUFFER THE CIVIL MAGISTRATE TO INTRUDE HIS
POWERS INTO THE FIELD OF OPINION, AND TO RESTRAIN THE
PROFESSION OR PROPAGATION OF PRINCIPLES ON SUSPENSION
OF THEIR ILL TENDENCY, IS A DANGEROUS FALLACY
WHICH AT ONCE DESTROYS ALL RELIGIOUS LIBERTY,"
IT IS DECLARED "THAT IT IS TIME ENOUGH FOR THE RIGHTFUL
PURPOSES OF CIVIL GOVERNMENT FOR ITS OFFICERS TO
INTERFERE WHEN PRINCIPLES BREAK OUT INTO OVERT
ACTS AGAINST PEACE AND GOOD ORDER," IN THESE TWO
SENTENCES IS FOUND THE TRUE DISTINCTION BETWEEN
WHAT PROPERLY BELONGS TO THE CHURCH AND WHAT
TO THE STATE.

FROM THE FOREGOING AUTHORITY IT CAN BE SEEN THAT
THE APPELLANT BY HIS DESIRE TO MAINTAIN HIS MARRIAGE
HAS COMMITTED NO "OVERT ACT AGAINST PEACE AND GOOD
ORDER" HOWEVER WHEN APPLIED TO HIS SPOUSE IT IS
REDILY SEEN THAT HER ACT, DIVORCE IS "AGAINST
PEACE AND GOOD ORDER" SINCE THE BROKEN HOME IS
WIDELY HELD TO DISRUPT SOCIETY.

THIS VESTED RIGHT TO RELIGIOUS LIBERTY CANNOT
BE TAKEN FROM ANY CITIZEN OF THIS COUNTRY UNLESS IT
IS CLEARLY SHOWN THAT THE CITIZEN "COMMITTED AN
OVERT ACT AGAINST PEACE AND GOOD ORDER" BROKE A
LAW,

THE STATE OF ARIZONA DID PASS A LAW IN 1973

SUCH LAW DID PROHIBIT APPELLANT'S FREE EXERCISE RIGHTS
AND SUCH LAW DID VIOLATE THE 2ND SENTENCE OF
THOMAS JEFFERSON DEFINITION OF RELIGIOUS LIBERTY
BY CAUSING SOCIAL DISORDER WITHOUT A "RIGHTFUL
PURPOSE" BEING SHOWN.

THEREFORE SUCH LAW MUST BE DECLARED A VIOLATION
OF THE FIRST AMENDMENT SINCE IT UNLAWFULLY
DEPRIVES ONE OF RELIGIOUS LIBERTY.

SUCH LAW IS UNCONSTITUTIONAL

CONSTITUTIONAL AND STATUTORY PROVISIONS (CONT)

The Arizona Courts violated Appellants Supersedeas Stay by allowing several court actions to proceed while the divorce case was pending appeal, which resulted in the loss of about \$275,000.00 equity value, of Appellants property. By these foregoing acts and the ordering of Appellant's supersedeas stay dissolved prior to a determination being made as to whether the Arizona divorce law was unconstitutional was a violation of Article I Section 10 of the United States Constitution which states to wit:

"THE STATE SHALL PASS NO LAW WHICH IMPAIRS THE OBLIGATION OF A CONTRACT"

VIOLATION OF REMOVAL STATUTES

THE REMOVAL STATUTES 28 USC § 1442(e) AND 1450 WERE VIOLATED BY THE STATE COURTS WHO PROCEEDED BY ISSUANCE OF ORDERS WHICH RESULTED IN APPELLANT'S UNLAWFUL INCARCERATION WHICH PREVENTED APPELLANT FROM PREPARING AND FILING HIS APPEAL BRIEF TIMELY AND REQUIRED AN APPEAL TO THIS COURT BECAUSE THE U.S. COURT OF APPEALS FAILED TO ENFORCE THE FEDERAL REMOVAL STATUTES WHICH BY ACT OF CONGRESS IN 1948 WERE INACTED TO PROHIBIT THE STATE COURTS FROM PROCEEDING UNTIL OR UNLESS THE CASE IS REMANDED

SECTION 1442(e) STATES TO WIT:

"... AFTER FILING THE PETITION ... THE STATE COURT SHALL PROCEED NO FURTHER UNLESS OR UNTIL REMAND"

THE RULING CASE LAW ON THIS CHANGE OF REMOVAL LAW BY 1949 ACT OF CONGRESS IS HOPSON V NORTH AMERICAN INS CO

71 IDA NO 461, 233 P2d 799, 25 ALR 2d 1040 AND CITING SUCH AUTHORITY AT PAGE 1044

"BY PROVIDING IN SECTION 1446 THAT TAKING SUCH PROCEDURAL STEPS EFFECTS REMOVAL OF THE CAUSE TO FEDERAL COURT, WHICH IS NOT FOUND IN THE

()

CONSTITUTIONAL AND STATUTORY PROVISIONS (CONT)

EARLIER ACT, CONGRESS HAD THEREBY EXPRESSLY EFFECTED THE REMOVAL OF THE CAUSE TO THE FEDERAL COURT IRRESPECTIVE OF THE ULTIMATE DETERMINATION OF THE QUESTION AS TO WHETHER OR NOT IT IS REMOVABLE; IT IS NOT THEREAFTER IN THE STATE COURT FOR ANY PURPOSE UNTIL OR UNLESS THE CAUSE IS REMANDED; FOR THAT REASON THE STATE COURT IS EXPRESSLY PROHIBITED FROM PROCEEDING FURTHER UNTIL OR UNLESS IT IS SO REMANDED; UNDER SECTION 14 THE REMOVAL WAS NEVER ACCOMPLISHED UNLESS IT WAS A CAUSE REMOVABLE; UNDER THE PRESENT ACT REMOVAL IS ACCOMPLISHED AND JURISDICTION ATTACHES IN THE FEDERAL COURT EVEN THOUGH IT MAY BE SUBSEQUENTLY DETERMINED THAT IT SHOULD BE AND IS THEREAFTER REMANDED. REMOVABILITY IS NO LONGER A CRITERION WHICH GIVES OR DENIES VALIDITY TO THE PROCEEDINGS IN THE STATE COURT WHILE A PETITION FOR REMOVAL TO THE FEDERAL COURT IS PENDING; ANY SUCH PROCEEDING IN THE STATE COURT UNDER THE PRESENT ACT (SECTION 1446(e)) ARE NOT SANCTIONED; THEY ARE PROHIBITED. THE FOLLOWING AUTHORITIES SUPPORT THIS HOLDING: SOUTH CAROLINA V. MOORE 447 F.2d 1067; BARRETT V. SOUTHERN R. CO 68 FRD. 413; CALDWELL V. MONTGOMERY WARD AND CO. 207 F. Supp 161; LOWE V. JACOBS 243 F.2d 432; MITCHUM V. FOSTER 407 U.S. 285, 92 S. Ct. 2151; NEW FORD V. AMERICAN MOTOR SALES CORP 471 F. Supp 328, 622 F.2d 584.

SECTION 1450

ALTHOUGH THE CASE HAD BEEN REMOVED AND PURSUANT TO SECTION 1446(e) THE STATE COURT WAS PROHIBITED FROM FURTHER PROCEEDING UNTIL OR UNLESS THE CASE WAS REMANDED THE STATE COURT PROCEEDED TO ENFORCE THE ORDERS IT HAD MADE PRIOR TO REMOVAL WHICH AGAIN VIOLATED REMOVAL STATUTES, SECTION 1450 WHICH STATES TO WIT:

"... ALL ... ORDERS AND OTHER PROCEEDINGS MADE IN SUCH ACTION PRIOR TO REMOVAL SHALL REMAIN IN FULL FORCE AND EFFECT UNTIL DISSOLVED OR MODIFIED, BY THE DISTRICT COURT."

'CONSTITUTIONAL AND STATUTORY PROVISIONS (CONT.)

IN SUPPORT OF THE FORGOING APPELLANT-SUBMITS
GRANNY GOOSE FOODS INC V. BROTHERHOOD OF TEAMSTERS ECT
415 U.S. 983, 39 LEd 2d 435 (1974)

[9,10] MORE IMPORTANTLY, ONCE A CASE HAS BEEN REMOVED TO FEDERAL COURT, IT IS SETTLED THAT FEDERAL COURT RATHER THAN STATE LAW GOVERNS THE CASE, NOT WITHSTANDING STATE COURT ORDERS ISSUED PRIOR TO REMOVAL. SECTION 1450 IMPLIES AS MUCH BY RECOGNIZING THE DISTRICT COURT'S AUTHORITY TO DISSOLVE OR MODIFY INJUNCTIONS, ORDERS, AND ALL OTHER PROCEEDINGS HAD IN STATE COURT PRIOR TO REMOVAL. THIS COURT RESOLVED THIS ISSUE LONG AGO IN EX PARTE FISK 113 U.S. 713, 5 S.Ct. 724 (1885) THERE IT WAS ARGUED THAT AN ORDER TO TAKE A DEPOSITION OF A WITNESS ISSUED BY THE STATE COURT PRIOR TO REMOVAL WAS BINDING IN THE FEDERAL COURT AND COULD NOT BE RECONSIDERED BY THE FEDERAL COURT, NOT WITHSTANDING ITS INCONSISTENCY WITH CERTAIN FEDERAL STATUTES GOVERNING PROCEDURE IN FEDERAL COURTS. THE COURT REJECTED THIS CONTENTION AND SAID THAT THE PREDECESSOR OF 1450

"DECLARES ORDERS OF THE STATE COURT, IN A CASE AFTERWARDS REMOVED, TO BE IN FORCE UNTIL DISSOLVED OR MODIFIED BY THE CIRCUIT COURT. THIS FULLY RECOGNIZES THE POWER OF THE LATTER COURT OVER SUCH ORDERS. AND IT WAS NOT INTENDED TO ENACT THAT AN ORDER MADE IN THE STATE COURT, WHICH AFFECTED OR MIGHT AFFECT THE MODE OF TRIAL (MOTION FOR NEW TRIAL PENDING) YET TO BE HAD, COULD CHANGE OR MODIFY THE EXPRESS DIRECTIONS OF AN ACT OF CONGRESS ON THAT SUBJECT.

"THE PETITIONER HAVING REMOVED HIS CASE INTO THE CIRCUIT COURT HAS A RIGHT TO HAVE ITS FURTHER PROGRESS GOVERNED BY THE LAW OF THE LATTER COURT, AND NOT BY THAT COURT FROM WHICH IT WAS REMOVED; IF ONE OF THE ADVANTAGES OF THIS REMOVAL WAS AN ESCAPE FROM THIS EXAMINATION, HE HAS A RIGHT TO THAT BENEFIT, IF HIS CASE WAS RIGHTFULLY REMOVED." 5 S.Ct. at 729

IN THE INSTANT CASE APPELLANT REMOVED THE CASE AND DESIRES AND HAS A RIGHT TO HAVE THE FEDERAL COURT TO DETERMINE THE ISSUES IN HIS MOTIONS FOR NEW TRIAL

CONSTITUTIONAL AND STATUTORY PROVISIONS

THE ISSUES IN THE MOTIONS FOR NEW TRIAL ARE:

1. WHETHER THE STATE VIOLATED ART I SECTION 10 OF THE U.S CONSTITUTION BY ORDERING THE SUPERSEDEAS BOND DISSOLVED PRIOR TO A DETERMINATION BEING MADE ON THE CONSTITUTIONALITY OF THE ARIZONA DIVORCE LAW; AND
2. WHETHER THE STATE PROCEEDED WITHOUT JURISDICTION ON MARCH 29, 1982 SINCE THE REMAND ORDER HAD A FEDERAL CERTIFICATION ON IT OF MARCH 30, 1982 AND THEREFORE A VIOLATION OF SECTION 1447(C) OCCURRED WHICH STATES TO WIT:

"... A CERTIFIED COPY OF THE ORDER OF REMAND SHALL BE MAILED BY ITS CLERK TO THE CLERK OF THE STATE COURT, THE STATE COURT MAY THEREUPON PROCEED WITH THE CASE."

THE FOLLOWING AUTHORITY SUPPORTS THIS, PEOPLE V BOGART 7 CAL APP 3d 257, 86 CAL RPT 737

"WHERE REMAND ORDER FROM UNITED STATES DISTRICT COURT WAS IN EFFECT DURING ENTIRE CRIMINAL TRIAL AND UP TO DATE OF LAST APPEARANCE AND FAILURE TO COMMUNICATE FINAL STAY ORDER TO TRIAL COURT IN A LEGAL AND PROPER MANNER AFTER IT WAS ISSUED BY UNITED STATES JUSTICE APPEARED TO JUSTIFY THE ACTION OF THE TRIAL COURT IN PROCEEDING..."

IN THE INSTANT CASE THE REMAND ORDER ALTHOUGH SIGNED AND FILED IN THE FEDERAL COURT IT DID NOT BECOME LEGAL UNTIL IT WAS CERTIFIED ON THE FOLLOWING DAY MARCH 30, 1982 AND THEREFORE JURISDICTION DID NOT ATTACH IN THE STATE COURT UNTIL MARCH 30, 1982

THIS MECHANICAL DEVICE, A CERTIFICATION DATE IS MUCH THE SAME AS WHEN THE JURISDICTION IS TRANSFERRED TO THE FEDERAL COURT WHEN THE NOTICE ^{OF PETITION} IS FILED STAMPED BY THE STATE COURT CLERK, WITHOUT THE FILE STAMP TO SHOW THE TRANSFER THERE IS NO JURISDICTION ATTACHED TO THE FEDERAL COURT. 11c GOLDRICK V. ICS SALES AND LEASING INC 412 F. Supp 269 STATED "UNDER THE LANGUAGE OF 28 USC § 1442(c) REMOVAL OF THE CASE AT BARD DID NOT TAKE EFFECT UNTIL DEFENDANT FILED A COPY OF THE REMOVAL PETITION WITH THE STATE COURT CLERK. HENCE AN ORDER OF ATTACHMENT GRANTED BY STATE COURT PRIOR TO SUCH TIME WAS HELD VALID."

UNDER THE LANGUAGE OF 28 USC § 1447C "A CERTIFIED COPY...
SHALL BE MAILED ... THEREUPON THE STATE MAY PROCEED"
THE STATE COURT CLEARLY PROCEEDED BEFORE THE FORGOING
WAS ACCOMPLISHED, THEREFORE NO JURISDICTION HAD ATTACKED
WHEN THE RULINGS WERE MADE.

FURTHER AUTHORITY TO SUPPORT INJUNCTIVE RELIEF

THE APPELLANT THROUGH ANOTHER AVENUE TO BE GRANTED
THE INJUNCTIVE RELIEF WHICH CONGRESS PROVIDED AND
WHICH THE STATE DISREGARDED AND WHICH THE APPEALS
COURT DID NOT SUPPORT BY THEIR DENIAL OF APPELLANT'S
REQUESTS OF APRIL 18, 1983 AND JUNE 1, 1983, THE APPELLANT
FILED A PETITION FOR REMOVAL BASED ON THIS COURT'S STATEMENTS
IN MITCHUM V. FOSTER 407 US 225, 32 LED 2d 705, 92 S Ct 2151
THIS COURT STATED IN DICTUM THAT IF IT HAD FOUND THAT FEDERAL
COURTS WERE IMPOWERED TO ENJOIN STATE COURT PROCEEDINGS
DISPITE THE ANTI-INJUNCTION STATUTE 28 USC § 2283, IN
CARRYING OUT THE WILL OF CONGRESS IN LEGISLATION PROVIDING
FOR REMOVAL OF LITIGATION FROM STATE TO FEDERAL COURTS.
38 ALR FED. THE APPELLANT USING MITCHUM V. FOSTER
IN HIS PETITION FOR REMOVAL AT [3-6] SEE ATTACHED
PETITION FOR REMOVAL APPENDIX 9c. ~~9c~~ APPELLANT SENT
A COPY OF SUCH PETITION TO THE U.S. COURT OF APPEALS IN
ORDER TO FURTHER SUPPORT THE REQUESTED INJUNCTIVE RELIEF
THE COURTS BOTH APPELLATE AND DISTRICT REJECTED THE
INJUNCTIVE RELIEF.

STATEMENT OF THE CASE

IN JUNE OF 1979 APPELLANT RESPONDED TO HIS WIFE'S PETITION
FOR DIVORCE BY STATING THE MARRIAGE WAS NOT MERE UN-
RECONCILABLE. IN APRIL 1980 AFTER DISCHARGING TWO ATTORNEYS
WHO REFUSED TO REPRESENT MY BELIEFS, APPELLANT FILED
DOCUMENTS IN THE STATE COURT AND THE U.S. DISTRICT COURT
CIV 80-113-TUC PROTESTING THE STATE OF ARIZONA DIVORCING
HIM IN VIOLATION OF HIS "FREE EXERCISE" RIGHTS AS PROVIDED
HIM BY THE FIRST AMENDMENT OF THE U.S. CONSTITUTION.
THE FEDERAL COURT DENIED HIM THE REQUESTED INJUNCTION
AND THE STATE OF ARIZONA DIVORCED HIM ON MAY 8, 1983,

STATEMENT OF THE CASE

APPELLANT PERFECTED AN APPEAL FROM THE DIVORCE JUDGMENT AND WAS GRANTED A SUPERSEDEAS STAY UPON POST \$20,000.00 TWENTY THOUSAND DOLLARS. WITH SUCH STAY TO BE IN FORCE AND EFFECT UNTIL A FINAL DETERMINATION WAS MADE BY THE ARIZONA SUPREME COURT. DURING THIS APPEAL PROTECTED BY THE SUPERSEDEAS THE STATE COURT CONDUCTED PROCEEDINGS IN OTHER ACTIONS WHICH CAUSED APPELLANTS PROPERTY TO BE TAKEN FROM HIM IN VIOLATION OF THE SUPERSEDEAS. SOME (\$275,000.00) TWO HUNDRED AND SEVENTY THOUSAND DOLLARS, EQUITY VALUE WAS TAKEN IN VIOLATION OF THE SUPERSEDEAS. IN MARCH 1981 THE ARIZONA COURT OF APPEALS FOUND THE CASE MUST BE REVERSED FOR NON-COMPLIANCE WITH STATUTE THAT A BIFURCATED TRIAL SHOULD HAVE BEEN CONDUCTED AND VACATED AND SET ASIDE THE CUSTODY AND PROPERTY BUT AFFIRMED THE DIVORCE. THE ARIZONA SUPREME DECLINED REVIEW. APPELLANT FILED AN ACTION IN U.S. DISTRICT COURT SHOWING HE WAS STILL LEGALLY MARRIED BECAUSE ARIZONA LAW STATE A PERSON CANNOT BE DIVORCED UNTIL ALL PROPERTY AND CUSTODY ISSUES HAVE BEEN FINALLY RESOLVED. SEE CIV 81-419-TUC. A NEW TRIAL WAS HELD ON DECEMBER 23, 1982 AND IN CHAMBERS THE APPELLANT STIPULATED TO JOINT CUSTODY AND PROPERTY DIVISION. APPELLANT CHILDREN STAYED WITH HIM AT HIS RESIDENCE FOR CHRISTMAS VACATION AT WHICH TIME APPELLANT LEARNED THAT FROM WRITTEN QUESTIONS HIS 9 YEAR OLD DAUGHTER ANSWERED THAT HER MOTHER'S MALE LIVE IN FRIEND HAD SEXUALLY ABUSED HER. APPELLANT ON NEW YEAR'S EVE AND DAY TRIED TO GET CHILD PROTECTIVE AGENCY TO HELP HIM BUT THEY REFUSED AND APPELLANT PURSUANT TO COURT ORDERS RELUCTANTLY RETURNED HIS CHILDREN TO THEIR MOTHER'S RESIDENCE. THE APPELLANT MOVED THE COURT ON JANUARY 12, 1982, BEFORE ANY FORMAL ORDER WAS SIGNED, TO ORDER AN INVESTIGATION USING THE QUESTIONS WHICH HIS DAUGHTER HAD ANSWERED AND SIGNED AS BEING TRUE AS EVIDENCE AS TO WHAT HAD OCCURRED. THE CHILD REMAINED WITH THE SUSPECTED ABUSER, AND NO INVESTIGATION WHATEVER WAS CONDUCTED. ON MARCH 25, 1982 APPELLANT AGAIN REQUESTED THE COURT TO ORDER AN INVESTIGATION THE COURT INDICATED IT WAS GOING TO SIGN THE FORMAL ORDER AFTER HEARING THE MATTER ON THE ALLEGED SEXUAL ABUSE. ON THE MORNING OF THE HEARING, MARCH 29, 1982 APPELLANT FILED A PETITION FOR REMOVAL IN THE U.S. DISTRICT COURT

SYSTEM OF THE CASE

CIV 82-159-TUC AFTER SERVING NOTICE A. A COPY OF THE PETITION ON THE OPPOSING ATTORNEY AND FILING THE REQUIRED NOTICE AND A COPY OF THE PETITION WITH THE STATE CLERK APPELLANT WAS TOLD TO APPEAR IN COURT. THE COURT STATED IT HAD RECEIVED A TELEPHONE CALL FROM THE DISTRICT COURT AND WAS TOLD THAT THE MATTER WOULD BE REMANDED. THE COURT STATED IT WOULD HEAR MATTERS INVOLVING "STIPULATION CONCERNING CHILD CUSTODY, DISSOLUTION OF MARRIAGE AND DIVISION OF PROPERTY". IT THEN ISSUED ORDERS:

"IT IS ORDERED ADOPTING THE STIPULATION REGARDING DIVISION OF THE PROPERTY . . . THE CUSTODY OF THE MINOR CHILDREN AND OTHER MATTERS . . ."

SEE MINUTE ENTRY MARCH 29, 1982 APPENDIX ON THE NEXT DAY THE HEARING CONTINUED, AND APPELLANT RECEIVED IN COURT A REMAND ORDER IN CASE CIV-82-159-TUC DATED MARCH 29, 1982, AND WHICH THE STATE CLERK MARKED "FILED IN COURT, MARCH 30, 1982 MARY ANN TAYLOR" SEE APPENDIX 13. ON APRIL 22, 1982 THE JUDGMENT WAS ENTERED AND BECAUSE A VISITING JUDGE IT WOULD NOT BE EFFECTIVE UNTIL 10 DAYS, RULE 77(A) ARIZONA RULES OF CIVIL PROCEDURE. APPELLANT FILED HIS MOTION FOR NEW TRIAL ON MAY 7, 1982 AND HIS AMENDED MOTION FOR NEW TRIAL ON MAY 26, 1982 SEE APPENDIX 14-18. THE MAIN ISSUES BEING THAT THE MARCH 29, 1982 HEARING WAS CONDUCTED BY A COURT IN WANT OF JURISDICTION BECAUSE THE REMAND ORDER FILED IN COURT MARCH 30, 1982 DID NOT TRANSFER JURISDICTION LEGALLY TO THE STATE COURT AND THEREFORE THE PROCEEDINGS WERE VOID AND THE JUDGMENT IS VOID, AND ALSO THE DISSOLVING OF THE SUPERSEEDERS BEFORE A FINAL DETERMINATION BY THE ARIZONA SUPREME COURT WAS A VIOLATION OF ARTICLE I SECTION 10 OF THE U.S.

CONSTITUTION. SOMETIME AFTER FILING THE MOTIONS FOR NEW TRIAL APPELLANT DISCOVERED A NEW REMAND ORDER HAD BEEN PLACED IN THE COURT FILE WHICH NOW HAD THE REQUIRED FEDERAL CERTIFICATION. APPENDIX 19 HOWEVER THIS DOCUMENT WAS MATERIALLY DIFFERENT TO THE ONE FILED IN THE STATE COURT ON MARCH 30, 1982 AND ALSO WITH THE ORIGINAL ON FILE IN THE U.S. DISTRICT COURT CIV 82-159-TUC APPENDIX 20 UPON EXAMINATION OF THE THREE DOCUMENTS IT CAN BE EASILY SEEN THAT THE DOCUMENT WITH THE FEDERAL CERTIFICATION

STATEMENT OF THE CASE

ON IT WAS A FRAUD BECAUSE THE OTHER TWO DOCUMENTS HAD BEEN SIGNED UNDER THE FEDERAL FILE STAMP BUT THE FRAUD HAD NOT BEEN SIGNED. THE SAME CLERK YOLANDA C. LEON SIGNED THE FEDERAL CERTIFICATION OF MARCH 30, 1982 THAT SIGNED THE ORIGINAL FEDERAL FILE STAMP.

ON AUGUST 23, 1982 APPELLANT FILED THE PETITION FOR REMOVAL CIV 82-1335-PHX IN THE PHOENIX DISTRICT COURT AND ON OCTOBER 12, 1982 HE FILED HIS MOTION FOR DETERMINATION OF THE CONSTITUTIONALITY OF THE ARIZONA DIVORCE STATUTE APPENDIX 20-25 ON OCTOBER 18, 1982 THE COURT ORDERED THE CASE TO BE DISMISSED FOR LACK OF JURISDICTION AND ON OCTOBER 26, 1982 ENTERED THE JUDGMENT. ON NOVEMBER 1, 1982 APPELLANT PERFECTED HIS APPEAL TO THE UNITED STATES COURT OF APPEALS # 82-5908 SEE CIVIL DOCKET SHEET CIV 82-1335 APPENDIX 4 ON NOVEMBER 2, AND NOVEMBER 9, 1982 THE STATE COURT ENTERED ORDERS ORDERING APPELLANT MOTIONS FOR NEW TRIAL DENIED SEE APPENDIX 26-27 AND ISSUED IN VIOLATION OF SECTION 1446(E) ORDER WHICH RESULTED IN APPELLANT'S CHILDREN AGES 10 AND 12 TO BE DRAGGED, VIOLENTLY, SCREAMING LOUDLY FROM APPELLANT'S RESIDENCE WHERE THEY HAD LIVED FOR SOME 6 MONTHS. ALSO ORDERED WAS APPELLANT'S SUPERSEDES BOND CASH TO BE TAKEN BY GARNISHMENT. APPELLANT LEARNED THAT HIS WIFE HAD THE HOUSE UP FOR SALE AND IN A TELEPHONE CONVERSATION WITH HIS SON AGE 12, LEARNED HE WAS TO BE TAKEN TO CALIFORNIA FOR A WEEK'S VACATION?" APPELLANT KNOWING THERE WAS NO FINAL, OR VALID JUDGMENT, AND KNOWING THE CHILDREN WERE TAKEN FROM HIS RESIDENCE WITH UNLAWFUL ORDERS IN VIOLATION OF 1446E AND 1450 TOLD HIS CHILDREN TO MEET HIM AT A CERTAIN TIME SO THEY COULD STAY WITH HIM AND NOT BE TAKEN TO CALIFORNIA. ON DECEMBER 10, 1982 APPELLANT WAS ARRESTED AND TAKEN TO SANTA CRUZ COUNTY AND WAS RELEASED. ON DECEMBER 28, 1982 HE APPEARED AND PRESENTED DOCUMENTS SHOWING THE COURT DID NOT HAVE JURISDICTION. THE STATE COURT CONTINUED AND SUBSEQUENTLY ARRESTED APPELLANT AGAIN AND WHILE HE WAS INCARCERATED, BROKE INTO HIS HOME AND STOLE THE CERTIFIED COPIES SHOWING THE HEREIN ABOVE FRAUD. APPELLANT HAD ANOTHER SET HIDDEN AWAY THAT THEY DID NOT GET. THE STATE COURT ARRESTED APPELLANT AGAIN CLAIMING HE FAILED TO OBEY COURT

STATEMENT OF THE CASE

ON MAY 20, 1983 APPELLANT WAS ARRAIGNED FOR CUSTODIAL INTERFERENCE BASED ON THE JUDGMENT THAT APPELLANT SHOWED WAS OBTAINED THROUGH FRAUD. ON MAY 20, 1983 THE STATE COURT ORDERED HIM TO APPEAR FOR TRIAL JUNE 6, 1983. ON JUNE 1, 1983 APPELLANT MOVED THE UNITED STATES COURT OF APPEAL FOR AN INJUNCTION, OR WRIT OF PROHIBITION. THE JUNE 6, TRIAL DATE WAS POSTPONED BY THE COURT TO JUNE 27, 1983. APPELLANT MOVED THE APPEALS COURT FOR A SECOND EMERGENCY PETITION FOR INJUNCTIVE RELIEF AND ALSO REQUESTED AND ENLARGEMENT OF TIME OF 30 DAYS AFTER THE INJUNCTIVE RELIEF WAS GRANTED.

~~APPELLANT~~ APPENDIX

AFTER THESE MOTIONS WERE SENT ON THE 13th OF JUNE, THEY WERE FILED IN APPEALS COURT, ON JUNE 15, APPELLANT RECEIVED THE COURT OF APPEALS ORDER DENYING HIS JUNE 1, 1983 PETITION FOR INJUNCTION ON FILED IN THE COURT ON JUNE 13, 1983 AND RECEIVED BY APPELLANT ON JUNE 15, 1983. APPELLANT ALSO RECEIVED THE ORDER DENYING HIS APRIL 18, INJUNCTION ON JUNE 18, 1983 SEE APPENDIX

ON JUNE 27, 1983

APPELLANT FILED A PETITION FOR REMOVAL OF THE CRIMINAL CASE 4646A, SANTA CRUZ CO NOGALES, ARIZ CR 83-186-TUC LATER TRANSFER TO PHOENIX CR 83-190-PHX-WPC. APPELLANT SENT A COPY OF THIS DOCUMENT TO THE HOPES THAT THIS AND HIS JUNE 15 MOTION FOR INJUNCTION AND HIS MOTION TO ENLARGE THE TIME TO FILE THE BRIEF WOULD CAUSE THE APPEALS COURT TO RECONSIDER. APPELLANT WAS ARRESTED IN COURT ON JUNE 29, 1983, CHARGED WITH CONTEMPT OF COURT WHICH WAS SIMILAR TO A STAR CHAMBER PROCEEDING. HE WAS ORDERED TO SPEND 60 DAYS IN SANTA CRUZ COUNTY JAIL AND A \$50,000.00 APPEARANCE BOND WAS ORDERED SET FOR HIS APPEARANCE AT TRIAL ON AUGUST 19, 1983. ON JULY 14 APPELLANT, WHOSE MAIL HAD BEEN HELD FROM HIM, LEARNED UPON DEMANDING ON THE TELEPHONE TO KNOW IF ANY MAIL HAD COME FROM THE COURT OF APPEALS, HE WAS TOLD OF THE ORDER OF JULY 5, 1983 STATING HIS APPEAL BRIEF WOULD BE DISMISSED, HIS MOTIONS OF JUNE 15, 1983 REQUESTING INJUNCTIVE RELIEF DENIED, AND THAT HE HAD 14 DAYS UP TO AND INCLUDING JULY 18 TO FILE HIS BRIEF OR THE WOULD BE DISMISSED. APPELLANT SENT HIS NOTICE OF APPEAL TO THE UNITED STATES SUPREME COURT BY EXPRESS MAIL TO THE COURT OF APPEALS ON FRIDAY JULY 15, 1983. THE NOTICE OF APPEAL WAS MARKED RECEIVED JULY 16, 1983, APPX 10

STATE PART OF THE CASE (CONT.)

ON AUGUST 15, 1983 APPELLANT RECEIVED A LETTER FROM THE COURT OF APPEALS WHICH STATED THAT MY APPEAL TO THE SUPREME COURT HAD BEEN FILED ON THE 19th OF JULY 1983 I HAVE THE ORIGINAL CARBON COPY WITH THE INK MARK OF THE COURT STATING A FILE MARK OF 18th JULY 1983 APPX 10 THE LETTER ALSO STATED THAT MY PETITION FOR WRIT OF HABEAS CORPUS (NEVER RULED ON) WAS RECEIVED ON THE 19th OF JULY 1983 WHEN I HAD THE ORIGINAL COPY (CARBON) WITH FILE DATE IN COURT'S INK STATING IT WAS RECEIVED ON THE 15th OF JULY 1983. I ALSO HAVE AN AFFIDAVIT DATED SAYING THE PETITION WAS MAILED, CERTIFIED TO THIS COURT ON THE 12th OF JULY 1983 SEVEN DAYS PRIOR TO THE TIME THE COURT OF APPEALS SAID THEY RECEIVED IT ON THE 19th JULY COPIES OF THESE DOCUMENTS APPEAR IN THE APPENDIX PAGES

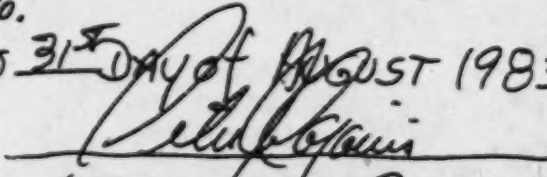
ON AUGUST 15, 1983 APPELLANT RECEIVED AN ORDER FROM THE APPEALS COURT FILE DATED AUGUST 12, 1983 AND GIVING THE APPELLANT 21 DAYS FROM THE ENTRY OF THE ORDER TO FILE HIS BRIEF. APPENDIX

THE COURT OF APPEALS WAS DIVESTED OF JURISDICTION IN THIS CASE UPON RECEIVING APPELLANT'S NOTICE OF APPEAL TO THE UNITED STATES SUPREME COURT ON THE 18 DAY OF JULY 1983. THE AUGUST 12, 1983 ORDER IS A NULLITY.

QUESTIONS PRESENTED ARE SUBSTANTIAL

THE QUESTION ON THE "NO FAULT" DIVORCE LAW IS SUBSTANTIAL SINCE SUCH LAW EFFECTS THE LIVES OF MILLIONS OF AMERICANS AS THE EVER INCREASING DIVORCE RATE SHOWS THIS LAW IS DESTROYING OUR COUNTRY THE LAW MUST BE REPEALED.

DATED THIS 31st DAY OF AUGUST 1983


c/o SANTA CRUZ COUNTY JAIL
NOGALES ARIZONA 85621
WHERE THE APPELLANT HAS REMAINED
NOW FOR SOME 60 DAYS

6. 83-543r

OFFICE OF THE CLERK
SUPREME COURT, U.S.

Very Truly Yours
 Clement Ogden

PETER J. COJANIS
% SANTA CRUZ COUNTY JAIL
NOGALES, ARIZONA 85621

NO.

SUPREME COURT OF THE UNITED STATES

BARBARA ANN COJANIS
Petitioner / appellee

vs.
PETER J. COJANIS
Respondent / appellant

PETER J. COJANIS
Plaintiff / appellant

vs.
WILLIAM E. DRUKE et al
Defendants / appellees

PETER J. COJANIS
Plaintiff / appellant

vs.
LEWIS KAY SPRADLIN et al.

MOTION FOR LEAVE TO FILE IN
FORMA PAUPERIS

Appellant, PETER J. COJANIS REQUESTS LEAVE TO FILE IN FORMA PAUPERIS. Appellant HAD PREVIOUSLY ASKED AND WAS GRANTED LEAVE TO FILE IN FORMA PAUPERIS IN CASE MISC - 01577 - PM BY U.S. DISTRICT COURT JUDGE WILLIAM P. COPPLE ON JULY 27, 1983. THE ATTACHED SWORN STATEMENT SHOWS SIMILAR CONDITIONS EXIST THAT SHOULD PERMIT Appellant LEAVE TO FILE IN FORMA PAUPERIS IN THIS INSTANT CASE.

DATED THIS 10th DAY of SEPTEMBER 1983

Peter J. Cojanis
PETER J. COJANIS, Appellant
% SANTA CRUZ COUNTY JAIL
NOGALES, ARIZONA 85621

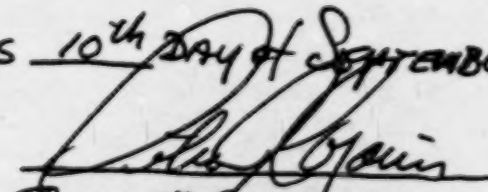
STATEMENT, SUPPORT OF LEAVE TO FILE
IN FORMA PAUPERIS

THE APPELLANT, PETER J. COJANIS SWEARS THE FOLLOWING IS THE TRUTH:

1. THAT APPELLANT IS INCARCERATED ^{UNLAWFULLY} IN A SMALL COUNTY JAIL BY THE STATE OF ARIZONA IN ORDER TO DEFERT HIS ATTEMPT TO APPEAL THE STATE DIVORCE (AND AS BEING UNCONSTITUTIONAL)
 2. THAT NO NOTARY IS AVAILABLE AT SUCH JAIL AND APPELLANT IS UNABLE TO HAVE A NOTARY COME TO SUCH JAIL
 3. THAT APPELLANT HAS ABOUT \$0 CASH IN HIS JAIL ACCOUNT AND ABOUT \$100.00 ONE HUNDRED DOLLARS IN HIS BANKING ACCOUNT.
 4. THAT APPELLANT HAS ASKED HIS BROTHER FOR MONEY TO FILE HIS APPEAL FEE BUT WAS REFUSED.
 5. THAT APPELLANT HAS, BECAUSE OF HIS INCARCERATION, NO OTHER WAY OF GETTING THE MONEY TO FILE HIS DOCKET FEE.
 6. THAT APPELLANT HAS PROPERTY WHICH IS TIED UP ON APPEAL BY COURT ORDER AND HE CANNOT BORROW ON SUCH PROPERTY.
 7. THAT APPELLANT BELIEVES HE WILL HAVE THE MONEY TO PAY HIS APPEAL EXPENSES AT A LATER DATE AND PROMISES TO PAY AT THAT TIME.
 8. THAT APPELLANT WAS GRANTED LEAVE TO APPEAL IN FORMA PAUPERIS ON JULY 27, 1983 IN CASE MISC-01577 PHX BY U.S. DISTRICT COURT JUDGE WILLIAM P. COAPLE.
 9. THAT SIMILAR CONDITIONS EXIST AND APPELLANT BELIEVES HE SHOULD BE GRANTED HIS RIGHT TO APPEAL IN FORMA PAUPERIS IN THIS INSTANT CASE
- WHEREFORE APPELLANT REQUESTS HIS MOTION TO APPEAL IN FORMA PAUPERIS BE GRANTED

APPELLANT STATES THE FOREGOING TO BE THE TRUTH.

DATED THIS 10th DAY OF SEPTEMBER 1983


PETER J. COJANIS

NO NOTARY AVAILABLE BECAUSE OF JAIL

NO. 83-5431

SUPREME COURT OF THE UNITED STATES
OCTOBER TERM 1983

BARBARA A. COJANIS
Petitioner - Appellee

VS.
PETER J. COJANIS
Respondent - Appellant

PETER J. COJANIS
Plaintiff - Appellant

VS.
WILLIAM E. DUKE et al.
Defendant - Appellee

PETER J. COJANIS
Plaintiff - Appellant

VS.
LEWIS RAY SPADLIN et al.
Defendants - Appellees

ON APPEAL FROM THE U.S. COURT OF
APPEALS FOR THE NINTH CIRCUIT

MOTION FOR LEAVE TO FILE IN FORMA PAUPERIS

Appellant, PETER J. COJANIS REQUESTS LEAVE TO FILE IN FORMA PAUPERIS. APPELLANT HAS REQUESTED AND WAS GRANTED LEAVE TO APPEAL IN FORMA PAUPERIS IN CASE MISC-01577 U.S. DISTRICT COURT PHOENIX, ARIZONA BY U.S. DISTRICT COURT JUDGE WILLIAM P. COOPEL ON JULY 27, 1983. A COPY OF SUCH ORDER GRANTING LEAVE TO FILE IN FORMA PAUPERIS IS ATTACHED HERETO AND MADE PART OF THIS MOTION. THE ATTACHED STATEMENT SHOWS A SIMILAR SITUATION EXISTS THAT SHOULD PERMIT GRANT LEAVE TO FILE IN FORMA PAUPERIS IN THIS INSTANT CASE.

WHEREFORE APPELLANT REQUESTS THE CLERK OF THIS COURT TO DOCKET HIS JURISDICTIONAL STATEMENT AND FILE HIS MOTION TO DISQUALIFY SENT TO THIS COURT ON SEPTEMBER 6, 1983.

DATED THIS 11th DAY OF SEPTEMBER 1983

Peter J. Cojanis

STATEMENT SUPPORTING MOTION TO FILE IN FORMA PAUPERIS

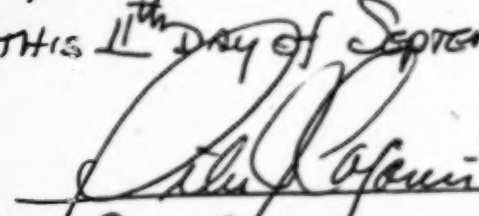
Appellant Peter J. Coyne states the following is the truth:

1. Appellant is incarcerated in the Santa Cruz County Jail where no money is available or facilities for typing or photo copying.
2. THAT Appellant believes his incarceration is an attempt by the State of Arizona to defeat his appeal concerning the constitutionality of the Arizona "no fault" divorce statutes
3. THAT Appellant has only about \$100.00 in the bank and because of his incarceration is unable to borrow such monies necessary to docket his appeal in this court.
4. THAT Affiant has property but such property is tied up by a court ordered supersedeas stay and Appellant cannot borrow or sell such property.
5. THAT Affiant believes he will have the money to pay his appeal in full at a later date and promises to pay at that time.
6. THAT Affiant requested to file in forma pauperis in a related case MISC - 01577 in PISOENIX DISTRICT COURT AND WAS GRANTED THE RIGHT TO APPEAL BY U.S. DISTRICT COURT JUDGE WILLIAM P. COPPLE, IN FORMA PAUPERIS ON JULY 27, 1983, A COPY OF SUCH ORDER IS ATTACHED HERETO.
7. THAT A SIMILAR SITUATION STILL EXISTS AND AFFIANT BELIEVES HE SHOULD BE GRANTED HIS RIGHT TO APPEAL IN FORMA PAUPERIS

WHEREFORE Appellant REQUESTS HE BE PERMITTED TO APPEAL IN FORMA PAUPERIS.

Appellant/Affiant states the foregoing is the truth,

DATED THIS 11th DAY OF SEPTEMBER 1983



c/o Santa Cruz County Jail
NOGALES ARIZONA 85621

*Paid from Lita Seguelittle
August 9, 1983
PJB*

4

FILED

JUL 27 1983

U. S. DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

In the Matter

of

PETER J. COJANIS

No. MISC. - 01577 PHX

O R D E R

IT IS ORDERED:

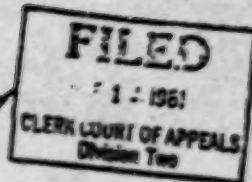
Leave to appeal in forma pauperis is granted.

DATED July 27, 1983.

W. H. H. H.

United States District Judge

cc: Peter J. Cojanis
9th Circuit Court of Appeals



IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION TWO

BARBARA ANN COJANIS,

Petitioner/Appellee,

v.

PETER J. COJANIS,

Respondent/Appellant.

2 CO-CIV 5713

APPEAL FROM DECISION
Set for Publication,
Rule 44, Rules of
the Arizona Court

APPEAL FROM THE SUPERIOR COURT OF MARICOPA COUNTY

Case No. D-27744

Reversible Lloyd C. Hite.

AFFIRMED IN PART
REVERSED IN PART

Cohen & Hillary
by Eric Cohen

Tucson

Attorneys for Petitioner/Appellee

Peter J. Cojanis

Tucson

In Propria Persona

NATHAWAY, Chief Judge.

Appeals pg 1

This appeal arises out of a decree of marriage dissolution and involves child custody and property distribution. Appellee filed for dissolution of the marriage in May 1979. Appellant availed himself of the services of two attorneys during the proceedings, but went to trial in propria persona and likewise is handling his own appeal. He is not an attorney and his cause is not enhanced through his attempted self-advocacy.

In the spirit of *Ackerman v. Kaufman*, supra, n. 1, we have scrutinized the briefs and the record in an effort to determine whether this court should in any manner intercede. The record is confusing as are the briefs. Although we sympathize with the trial court's dilemma in dealing with a difficult situation, we find that this cause must be reversed for noncompliance with A.R.S. Sec. 25-328. See *Homesy v. Homesy*, 128 Ariz. 336, 615 P.2d 14 (Apr. 1980). In accordance with *Homesy*, all the provisions of the decree of dissolution are ^{VACATED} ~~annulled~~ and set aside except the ^{ORDER} ~~decree~~ dissolving the marriage. That part of the ~~decree~~ dissolving the marriage is

1 In *Ackerman v. Kaufman*, 41 Ariz. 110, 15 P.2d 987 (1932), the Arizona Supreme Court, experiencing frustration at the ineptitude of a pro per appellant, observed:

"Defendant is both the lower court and in this court has elected to act as his own attorney. Not being a member of the legal profession, and apparently not having even the knowledge of law which an ordinary intelligent layman possesses, his brief fails entirely to comply with the rules of this court, particularly in that there are no assignments of error. Indeed, there is no intelligible statement in the brief from which we can determine just what particular rulings of the lower court he objects to, except that he thinks he has been denied justice in the final result reached by that court.

This is not the first time that defendant has appeared in this court as an appellant (citations omitted). The same condition of the record existed in the cases just cited. On those appeals it appeared that the trial court through the whole proceedings had done its best to persuade defendant that he should secure counsel so that his rights, if he had any, could be guarded properly, but he failed to do so. When his appeals were argued the members of this court tried to impress upon him in the strongest possible manner that it was the height of folly for a man not conversant with legal procedure to attempt to conduct in his own person a contested and complicated lawsuit, but it is evident from this appeal that such advice was utterly ignored.

Notwithstanding these facts, instead of dismissing the appeal without further consideration, as we well might do under our rules, we have examined the record carefully to see if we could ascertain therefrom whether or not defendant might have some rights which were entitled to protection by this court." 41 Ariz. at 111-112, 15 P.2d at 988-987.

APPENDIX 2

affirmed and the cause is remanded for further proceedings consistent with this opinion.

J. H. HARTMAN, Chief Judge

CONCURRENCE:

LAWRENCE H. HARRIS, Judge

BEN C. BUCKLEY, Judge

Approved 3

EXHIBIT #1

CIV 82-1335-PHX-CAN

RECEIVED
JAN 1982

| PLAINTIFF | | DEFENDANT | | DOCKET NO. | PAGE | OF | PAGES |
|---------------------|-----|---|--|------------|------|----|-------|
| Barbara Ann Cojanis | | Peter J. Cojanis | | 82-1335 | | | |
| DATE | NIL | PROCEEDINGS | | | | | |
| 8/23/82 | 1 | PETITION FOR REMOVAL | | | | | |
| 8/23/82 | 2 | Mtc of filing cost bond on path for removal (receipt # 31764, \$500.00) | | | | | |
| 8/23/82 | 3 | Letter fr clerk to Mr. Cojanis re: caption correction | | | | | |
| 8/25/82 | 4 | Respondents Mtn to remand to state court. | | | | | |
| 8/25/82 | 5 | Ptnr Ptn verified for removal. | | | | | |
| 8/27/82 | 6 | Affid of svcs of path for removal upon Eric Cahan for B. Cojanis on 8/24/82 | | | | | |
| 8/27/82 | 7 | Ptnr reply to mtn to remand to state court. | | | | | |
| 9/7/82 | 8 | Ptnr Mtn for Order to Show Cause (contempt) | | | | | |
| 9/13/82 | 9 | Ptnr Mtc of hrg & Mtn to consolidate actions into one action. Mtd for 10/19/82 at 10:00 AM. | | | | | |
| 9/14/82 | 10 | Req for appt of private process server. | | | | | |
| 9/17/82 | 11 | Mtc of hrg re #7 for 10/18/82 at 10:00 AM. | | | | | |
| 9/21/82 | 12 | Petitioners mtn for determination of the legality of Judge Hardys assignment. | | | | | |
| 9/21/82 | 13 | LOGGED -- mtn for accelerated time for hrg re #11 & ord. (plcd in file not used) | | | | | |
| 9/23/82 | 14 | Mtn to accelerate hrg on mtn to consolidate actns. | | | | | |
| 9/27/82 | 15 | ORDER -- Ptnrs mtn req injunctive relief #11 is denied. Fur ord Ptnrs req for a hrg on his mtn for Determination of Legality of Judge Hardys Assignment is denied. (filed 9/24/82) | | | | | |
| 9/27/82 | 16 | cc: E. Cahan, P. Cojanis | | | | | |
| 10/6/82 | 17 | ORDER -- this cause transf to CLM for all fur proceedings. | | | | | |
| 10/6/82 | 18 | cc: E. Cahan, P. Cojanis | | | | | |
| 10/12/82 | 19 | Petitioner's Mtn for Determination of Constitutionality of Ariz Divorce Statute. | | | | | |
| 10/12/82 | 20 | Petitioners mtn to Reconsider order transferring case to CLM. (pendg bf CAN) | | | | | |
| 10/15/82 | 21 | ORDER (CAN) Ordered Petitioner Peter J. Cojanis's Mtn to Reconsider Order transferring case to Judge Hardy is denied. | | | | | |
| 10/15/82 | 22 | cc: E. Cahan, P. Cojanis & CLM. | | | | | |
| 10/18/82 | 23 | Ptf's Mtc of hrg & Mtn for Determination of Constitutionality of Ariz Divorce Statute set for 11/15/82 at 2 pm. (talked to Judy this date & she said this guy does not have jurisdiction, don't put it on calendar) | | | | | |
| 10/18/82 | 24 | ME: Petitioner's Mtn for OSC heard, Peter Cojanis pres for himself. ORDERED Dismissing CIV-82-1335 and CIV-82-1378 for lack of jurisdiction. | | | | | |
| 10/21/82 | 25 | cc: E. Cahan | | | | | |
| 10/21/82 | 26 | ORDER (CLM) Order granting mtn to consolidate w/82-1378, PUR ORD dismissing the actions for lack of jurisdiction. Copy of this order placed in CIV-82-1378. | | | | | |
| 10/26/82 | 27 | cc: E. Cahan, P. Cojanis, A.Ching; S. Neely. | | | | | |
| 10-26-82 | 28 | JUDGMENT: Ordered that this action is dismissed for lack of jurisdiction. | | | | | |
| 10-26-82 | 29 | cc: E. Cahan, P. Cojanis, A. Ching; S. Neely. | | | | | |
| 10-26-82 | 30 | Def's Notice of Appeal fm Order of 10-21-82 (Filed 10-25-82) (878 p) | | | | | |
| 10/29/82 | 31 | (CA 82-5908). | | | | | |
| 10/29/82 | 32 | Petitioner's Req for Certification & Transmission of all of record in consol cases CIV-82-1335 & 1378. | | | | | |
| 10/29/82 | 33 | Petitioner's Mtn for Stay on Appeal. | | | | | |
| 10/29/82 | 34 | LOGGED: Order re mtn for a stay on appeal. | | | | | |
| 11-1-82 | 35 | Def's Notice of Appeal fm jdgmt of 10-26-82 (Treated as an Amended Notice of Appeal). (CA 82-5908) | | | | | |
| 11-9-82 | 36 | Appellant's Transcript Designation & Ordering Form. | | | | | |

A TRUE COPY.
Certified this

W. J. F. *[Signature]*
By *[Signature]* Deputy Clerk

[Handwritten note]

EXHIBIT #3

D-26060
Rec'd Saturday
June 18, 1983
JLB

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

JUN 13 1983

PHILLIP B. WINBERRY
CLERK, U.S. COURT OF APPEALS

No. 82-5908

DC# CV 82-1335, 82-1378
Arizona (Phoenix)

BARBARA ANN COJANIS,

Petitioner-Appellee,
vs.

PETER J. COJANIS,

Respondent-Appellant.

PETER J. COJANIS,

Plaintiff-Appellant,
vs.

WILLIAM E. DRUKE, Judge, Superior Court,
Pima County, Arizona, et al.,

Defendants-Appellees.

ORDER

Before: FARRIS and FERGUSON, Circuit Judges.

The petition for writ of prohibition, etc., filed on April 18, 1983 is denied to the extent that it seeks relief pending appeal. Appellant should promptly brief this appeal in order that the underlying issues he wishes to raise may be fully presented to, and considered by, the court.

MoCal 6/6/83

APPENDIX 5

M-R

*Rec'd
June 15, 1983
CBB*

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

JUN 13 1983

PHILLIP B. WINBERRY
CLERK, U.S. COURT OF APPEALS

PETER J. COJANIS,

Petitioner;
vs.

UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF ARIZONA,

Respondent,
and

WILLIAM E. DRUKE, Presiding Judge, Pima
County Superior Court, State of Arizona;
ROBERTO C. MONTIEL, Presiding Judge, Santa
Cruz County Superior Court, State of
Arizona; BARBARA ANN COJANIS,

Real Parties in Interest.

No. 83 7395

DC# D-26060 WPC
Arizona (Tucson)

ORDER

Before: FARRIS and FERGUSON, Circuit Judges.

The emergency petition for writ of prohibition or mandamus
or injunction is denied.

MoCal 6/6/83

Appendix 6

PETER J. COYANIS
66 SANTA TRUZ COUNTY JAIL
NOGALES, ARIZONA 85716
85621

Rec'd this
Back with CIA Form 20
8/11/83
Rec'd back 2nd time
on Aug 30, 1983

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

STATE OF ARIZONA) CR 83-190-PHX-WPC
PLAINTIFF/RESPONDENT)
vs.) NOTICE OF APPEAL TO THE
PETER J. COYANIS) UNITED STATES SUPREME COURT
DEFENDANT/PETITIONER)

NOTICE IS HEREBY GIVEN THAT PETER J. COYANIS HEREBY
APPEALS TO THE SUPREME COURT OF THE UNITED STATES
FROM THE JUDGMENT OF WILLIAM P. COPPLE, UNITED STATES
DISTRICT COURT JUDGE DENYING DISMISSING AND REMANDING
THE CASE TO THE COURT FROM WHERE IT CAME, ENTERED IN THIS
ACTION ON JULY 8, 1983.

A DIRECT APPEAL IS TAKEN TO THE U.S. SUPREME COURT
PURSUANT TO TITLE 28 U.S.C. SECTION 1252 SINCE PETITIONER
HAS BEEN UNLAWFULLY INCARCERATED BY THE STATE OF ARIZONA IN
VIOLATION OF THE AUTOMATIC INJUNCTION PROVIDED BY REMOVAL STATUTE
28 USC SECTION 1446(c) AND THAT PURSUANT TO MITCHELL V. FOSTER
92 S. Ct. 2151(3-4) THIS COURT ERRED BY NOT INTERFERING WITH
THE STATE COURT PROSECUTION SINCE NO VALID CONVICTION WOULD HAVE
BEEN POSSIBLE SINCE THERE HAD BEEN NO LEGAL REMAND IN CIV 82
159-TUC AND THE PROSECUTION WAS AIMED AT DEFEATING
PETITIONER'S UNLAWFUL INCARCERATION TO NOT DETERMINATION
COULD BE MADE AS TO WHETHER ARIZONA "NO FAULT" STATUTE IS
A VIOLATION OF THE FREE EXERCISE CLAUSE OF THE FIRST AMENDMENT.

DATED THIS 5th DAY OF AUGUST 1983

Peter J. Coyanis
Peter J. Coyanis

Appendix 7

COPIES AND ORIGINAL MAILED BY CERTIFIED MAIL BY MAILER ON THIS
5th DAY OF AUGUST 1983. HAND DELIVERED BY ARIZONA MESSENGER SERVICE
DELIVERED TO US DISTRICT COURT ROOM 1400, PHOENIX BY ANGIE TILLMAN 8/9/83

*Rec'd from the Solicitor
August 3, 1983
- PJB*

FILED

JUL 05 1983

PHILLIP B. WINDENRY
CLERK, U.S. COURT OF APPEALS

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

BARBARA ANN COJANIS,

Petitioner-Appellee,

vs.

PETER J. COJANIS,

Respondent-Appellant.

PETER J. COJANIS,

Plaintiff-Appellant, -

vs.

**WILLIAM E. DRUKE, Judge, Superior Court,
Pima County, et al.,**

Defendants-Appellees.

PETER J. COJANIS,

Plaintiff-Appellant,

vs.

**LEWIS RAY SPRADLIN, MARY V. SPRADLIN,
PHILIP FAHRINGER, EDNA BLANK, JAMES D.
HATHAWAY, LAWRENCE HOWARD, BEN C. WIRDSALL,
ELIZABETH URWIN FRITZ, RONALD SOMMER, ERIC
CAHAN, STATE OF ARIZONA,**

Defendants-Appellees.

No. 82-5908

DC# CV 82-1555 CLH
Arizona (Phoenix)

83-1647

DC# CV 82-1150 CLH
Arizona (Phoenix)

ORDER

Before: FARRIS and FERGUSON, Circuit Judges.

Appellant's motion of June 15, 1983 to the extent that it
seeks reconsideration of the court's orders of June 13, 1983 is

Appendix # 7

82-5908, etc.

denied. Appellant shall file his opening brief on or before fourteen (14) days from the entry of this order. No further extensions will be granted. If appellant fails to comply with this order within that period, the Clerk is instructed to dismiss the appeal pursuant to 9th Cir. R. 19(b).

MoCal 6/6/83

APPENDIX 8

1 PETER J. COJANIS
1312 East Seventh St.
2 Tucson, Arizona 85719

RECEIVED
PHILLIP D. WINEBERRY
CLERK U.S. COURT OF APPEALS

JUN 15 1983

FILED 6-15-83
RECORDED DATE

3
4
5
6 UNITED STATES COURT OF APPEALS
7 FOR THE NINTH CIRCUIT

8 BARBARA ANN COJANIS,
Petitioner/Appellee,

9 vs.

NO. 82-5908/
83-1647

10 PETER J. COJANIS,
11 Respondent/Appellant.

MOTION TO ENLARGE
TIME FOR FILING
OPENING BRIEF

12 PETER J. COJANIS,
13 Plaintiff/Appellant,

14 vs.

15 WILLIAM E. DRUKE, Judge Pima
County Superior Court, et al.,
16 Defendants/Appellees

17 PETER J. COJANIS,
18 Plaintiff/Appellant,

19 vs.

20 LEWIS RAY SPRADLIN, et al.,
21 Defendants/Appellees.

22 APPELLANT, PETER J. COJANIS, moves this Court to grant
23 an extention of time for filing his opening brief in the above
24 entitled causes, and as his grounds for this motion shows as
25 follows:

26 1. On May 6, 1983 this court ordered appeal 83-1647
27 consolidated with appeal 82-5908 with the opening brief due 42
28 days after or on June 17, 1983.

1 Peter J. Cojanis
2 1312 East Seventh Street
3 Tucson, Arizona 85719

RECEIVED
PHILLIP C. WABERRY
CLERK U.S. COURT OF APPEALS

JUN 15 1983

FILED 6-15-83
RECORDED DATE

6 UNITED STATES COURT OF APPEALS
7 FOR THE NINTH CIRCUIT

8 PETER J. COJANIS
9 Petitioner,

No. 83-7395

10 vs.

SECOND EMERGENCY PETITION FOR
WRIT OF PROHIBITION AND/OR
MANDAMUS AND/OR INJUNCTION.

11 WILLIAM P. COPPLE et al
12 Respondents.

13 Petitioner again moves this Court for the relief requested
14 in his June 1, 1983 petition to this Court in view of the fact
15 that although the June 6, 1983 trial date is passed the matter
16 has been continued with the trial set for June 28, 1983.

17 The Petitioner believes the state is proceeding with this
18 trial to harass the Petitioner in order to defeat his attempt to
19 have the Arizona "no fault" divorce law repealed because it is
20 repugnant to the U.S. Constitution and that such prosecution is
21 proceeding when no valid conviction can be obtained since no valid
22 divorce judgment exists on which to base the charges of custodial
23 interference.

24 The attached affidavit with the attached exhibits show
25 that there is no divorce judgment on which to base the charges
26 and that the State of Arizona in order to obtain a final divorce
27 judgment and therefore moot the issue of the constitutionality
28 of the Arizona divorce law on appeal, has:

1 PETER J. COJANIS
2 1312 East Seventh St.
3 Tucson, Arizona 85719
4
5

6 UNITED STATES COURT OF APPEALS
7 FOR THE NINTH CIRCUIT COURT

8 BARBARA ANN COJANIS
9 Petitioner/Appellee,

10 vs.

11 PETER J. COJANIS,
12 Respondent/Appellant,

13 PETER J. COJANIS,
14 Plaintiff, Appellant,

15 vs.

16 WILLIAM E. DRUKE, Judge
17 Pima County Superior Court et al.
18 Defendants/Appellees

19 PETER J. COJANIS,
20 Plaintiff/Appellant

21 vs.

22 LEWIS RAY SPRADLIN, et al.,
23 Defendants/Appellees

NO. 82-5908/83-1647

D-26060 DC.# 035

NOTICE OF FILING
PETITION OF REMOVAL OF
STATE CRIMINAL ACTION
WHICH OUTCOME SERIOUSLY
AFFECTS THE INSTANT
APPEAL

RECEIVED
PHILLIP B. WINBERRY
CLERK, U.S. COURT OF APPEALS

JUN 28 1983

FILED 6-28-83
DOCKETED DATE

24 PETER J. COJANIS, Appellant herein, respectfully
25 notifies this Court of the filing in U.S. District Court,
26 Tucson, of the attached Petition for Removal of Criminal
27 Action which shows a situation exists which may require the
28 Chief Justice of this Court to assign one impartial tribunal

1 to this matter apart from the Courts in the State of Arizona,
2 or in other States where a similar conflict exists, for a
3 determination to be made that no valid divorce judgment exists
4 and therefore Appellants issue on appeal is not moot and that
5 the Appellant cannot be prosecuted for the crime of custodial
6 interference.

7 Respectfully submitted this 27th day of June 1983.

8
9
10 
11 ERIC J. COHAN, Appellant

12 Copies of the foregoing mailed this
13 27th day of June 1983 to:

14 Honorable JAMES R. BROWNING
15 ERIC COHAN, Attorney for BARBARA ANN COJANIS
16 RONALD W. SCHER, Attorney for SPRADLING
17 STEVEN NEELY, Attorney for JUDGE DRUKE
18
19
20
21
22
23
24
25
26
27
28

1 Peter J. Cojanis
2 1312 East Seventh Street
3 Tucson, Arizona 85716

4
5
6 UNITED STATES DISTRICT COURT
7 FOR THE DISTRICT OF ARIZONA

8 STATE OF ARIZONA)
9 Plaintiff/Respondent)
10 vs.)
11 PETER J. COJANIS)
12 Defendant/Petitioner)

TRANSFERRED TO
RND.C.
CR 83-190-PHX-WPC
No CR-83-186-TUC-ACM

PETITION FOR REMOVAL OF
CRIMINAL PROSECUTION

13 STATE OF ARIZONA)
14)
15 COUNTY OF PIMA)

SS:

16 PETER J. COJANIS, the petitioner herein, after being duly
17 sworn upon oath states:

18 1. Petitioner is the defendant in Santa Cruz County
19 Superior Court Case 4646A for the alleged crime of custodial
20 interference, a felony, based on the divorce judgment entered
21 in Pima County Superior Court case D-26060 on April 22, 1982.

22 2. The defendant was arrested on December 11, 1983 based
23 on the complaint for custodial interference signed by his
24 estranged wife on December 8, 1982, his initial appearance was
25 held on December 12, 1982 and he was released on his own
26 recognizance on December 13, 1983 see exhibits 1, 2 and 3.

27 3. Such prosecution has not yet been brought to trial.

28 4. The petitioner believes and therefore alleges that
the State of Arizona is proceeding with this prosecution
to harass the Petitioner in order to defeat his attempt to

1 have the Arizona "no fault" divorce law repealed as being
2 unconstitutional and that the State is proceeding with such
3 prosecution knowing that no valid conviction can be obtained
4 since no valid divorce judgment exists on which to base the
5 charge of custodial interference.

6 5. The attached affidavit with attached exhibits show
7 that there is no valid divorce judgment on which to base the
8 charges and that the State of Arizona in order to obtain a
9 final divorce judgment and therefore moot of the constitution-
10 ality of the Arizona divorce law on appeal, has:

11 A. Committed fraud; by placing an altered federal remand
12 order in Pima County Superior Court file in D-26060 in order
13 to give the appearance that the State Court had jurisdiction
14 when it conducted proceedings on which the judgment is based.

15 B. Failed to investigate the sexual abuse of Petitioner's
16 10 year old daughter, who had answered written questions, sub-
17 mitted to the State Divorce Court prior to entry of judgment,
18 which indicated she had been sexually abused by the man living
19 with Petitioner's estranged wife. The State in their attempt
20 to obtain a final divorce judgment disregarded this reported
21 sex abuse. Petitioner has recently discovered evidence from
22 the brother of an eleven year old girl which this same man
23 had sexually abused some 4 or 5 years ago and will again move
24 the Court to protect his child.

25 6. The Petitioner believes that he should be entitled to
26 remove this action from the State Courts to the Federal Courts
27 pursuant to the following authorities:

- 28 1. United States Supreme Court in Martin v Hunter's

1 Lessee 1W. (1816) and;

2 2. United States Supreme Court in Mitchum v. Foster
3 92 S. Ct 2151 (1972)

4 In Martin the Supreme Court stated on page 577:

5 That whenever a defendant may be deprived of all the
6 security which the Constitution intended in the aid
7 of his rights the suit may be removed from the state
8 courts to the national courts.

9 and further in MARTIN page 578

10 The existence of the power of removal is familiar in
11 courts acting according to the course of the common
12 law in criminal as well as civil cases, and it is
13 exercised before as well as after judgment.

14 and again from MARTIN on page 578

15 . . . removal of suits would be utterly inadequate to
16 the purposes of the Constitution if it could act only
17 on parties and not upon state courts . . . state
18 decisions would be paramount to the Constitution.

19 In order for the Petitioner (defendant) to prove
20 innocence of the crime of custodial interference he would have
21 to prove the divorce judgment was void, and in order to prove
22 such judgment was in fact void he would have to have a Court
23 make a determination that the remand order was in fact a fraud
24 and that therefore the State officials had committed this
25 fraud.

26 The Petitioner contends that the State Court would never
27 incriminate itself by admitting to the fraud and that the
28 State Court, absolutely should not be allowed to adjudicate
29 its own case since it has a definite interest in the outcome.
30 Because of this fact a tribunal apart from the State must
31 adjudicate this case, namely the Federal Courts, for unless
32 this is done as is stated in Martin supra "[the] defendant

1 may be deprived of all the security which the Constitution
2 intended in the aid of his rights," and therefore "the
3 [prosecution] may be removed from the State Courts to the
4 National Courts."

5 This point becomes even clearer when the United States
6 Supreme Court in Mitchum v. Foster 92 S. Ct. 2151 states at
7 page 2156,

8 [3 - 6] In Younger, this Court emphatically reaffirmed
9 "the fundamental policy against federal interference
10 with state criminal prosecutions."

11 . . . however the Court clearly left room for federal
12 intervention in a pending state court prosecution
13 in certain exceptional circumstances . . .

14 1. "Where irreparable injury is 'both great and
15 immediate'" 91 S. Ct. at 751 (Petitioner faces trial
16 immediately, June 27, 1983, and the injury may be great,
17 since the crime is a felony and he may be ordered to
18 prison.)

19 2. "Where the State law is 'flagrantly and patently
20 violative of express constitution prohibitions.'" 91
21 S. Ct. at 755 (The Arizona no fault divorce law is a
22 flagrant violation of the "free exercise clause" of the
23 First Amendment of the U. S. Constitution. More fully
24 explained in the attached Exhibit: "Motion for Determina-
25 tion of the constitutionality of Arizona Divorce
26 Statute.")

27 3. "Or where there is a showing of "bad faith, harass-
28 ment or a prosecutions undertaken by state officials in
bad faith without the hope of obtaining a valid conviction." 91 S. Ct. at 677." (The attached affidavit and documents show a fraud was committed in order to make it appear there was a valid divorce judgment and that the State officials are proceeding in bad faith knowing that no valid conviction could be obtained.)

As herewith stated the Petitioner pointed out the only way he could prove his innocence was to prove that the judgment was void and to do this he must first have a Court determine that the remand order had been altered and in order for this to be done, this State Court would have to incriminate itself

RECEIVED
PHILLIP B. WINBERRY
CLERK, U.S. COURT OF APPEALS

JUL 18 1983

FILED _____
DOCKETED _____ DATE _____ INITIAL _____

U.S. COURT OF APPEALS
FOR THE NINTH CIRCUIT

BARBARA ANN COJANIS

PETITIONER / APPELLANT

VS

PETER J. COJANIS

RESPONDENT / APPELLEE

PETER J. COJANIS

PLAINTIFF / APPELLANT

vs.
WILLIAM E. DROKE and

DEFENDANTS / APPELLEES

PETER J. COJANIS

PLAINTIFF / APPELLANT

vs.

LEONIS RAY SPRADLIN


DEFENDANTS / APPELLEES

NO. 82-5908 / 83-1647

NOTICE OF APPEAL TO
THE SUPREME COURT
OF THE UNITED STATES

NOTICE IS HEREBY GIVEN THAT PETER J. COJANIS, THE APPELLANT-PLAINTIFF-RESPONDENT ABOVE NAMED, HEREBY APPEALS TO THE SUPREME COURT OF THE UNITED STATES FROM THE FINAL ORDER OF JUSTICES OF THE U.S. COURT OF APPEALS DENYING APPELLANT'S RIGHT TO APPEAL BY THEIR DENIAL OF AN ENLARGEMENT OF THE PERIOD OF EXTRAORDINARY CIRCUMSTANCES CAUSED BY UNLAWFUL STATE CONDUCT. THE TIME THIS APPEAL TO BECOME EFFECTIVE IS WHEN SUCH ORDER IS ISSUED BY THE COURT

DATED Day of July 1983


PETER J. COJANIS
INCORPORATED, NO. 82-5908 / 83-1647
APPENDIX 10

M/B

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

AUG 12 1983

PHILLIP B. WILSON
CLERK, U.S. COURT OF APPEALS

BARBARA ANN COJANIS,
Petitioner-Appellee,
vs.
PETER J. COJANIS,
Respondent-Appellant.

No. 82-5908

DC# CV 82-1335 and
CV 82-1378 CLH
Arizona (Phoenix)

PETER J. COJANIS,
Plaintiff-Appellant,
vs.
WILLIAM E. DRUKE, Judge, Superior Court,
Pima County, et al.,
Defendants-Appellees.

ORDER

PETER J. COJANIS,
Plaintiff-Appellant,
vs.

No. 83-1647

DC# CIV 82-1150 PHX CLH
Arizona (Phoenix)

LEWIS RAY SPRADLIN, MARY V. SPRADLIN, PHILIP
FAHRINGER, EDNA BLANK, JAMES D. MATHAWAY,
LAWRENCE HOWARD, BEN C. BIRDSALL, ELIZABETH
URWIN FRITZ, RONALD SOMMER, ERIC CANAN,
STATE OF ARIZONA,
Defendants-Appellees.

ORDER

A TRUE COPY
ATTEST

Clerk of Court

By: *Philip B. Wilson*
Deputy Clerk

Before: FARRIS and FERGUSON, Circuit Judges.

APPX 11

- 2 -

82-5908,83-1647

In light of appellant's recent incarceration, the court grant's appellant an extension of time to file his opening brief. Appellant shall file his opening brief on or before twenty-one (21) days from the entry of this order. In all other respects the court declines to reconsider its order of July 5, 1983. The court will not entertain any further motions for reconsideration.

NoCal 6/6/83

Appx 124

EXHIBIT 1
IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF PIMA

John Doe
JURY, Court Clerk

NO. D-26060
DATE March 22, 1912

In re the Marriage of:

Barbara Ann Cojia
Petitioner.

Eric Cojia
Petitioner's Attorney

Peter J. Cojia
Respondent.

Dr. Prager Pierce
Respondent's Attorney

Continued Hearing MINUTE ENTRY White Cojia Reporting
Red Cojia Reporting

10:25 a.m. Both parties present.

Red Cojia Reporting.

The Court states that prior to the hearing this date, the parties met and Mr. Cojia indicated that he filed with the Federal Court a Petition for Removal. The Court acknowledges a telephone call received at 10:10 a.m. this date from Richard Hays, Clerk for the Honorable Judge Wiley, indicating that Judge Wiley had ordered a removal of this matter back to the Pima County Superior Court for all further proceedings.

Filed in Court: Telephone Hearing

Mr. Cojia requests that this matter be continued until advised opposite entry in record from the Federal Court.

May 1912
Deputy Clerk

L. 1237

28-52 (8/78)

Ni+

app Re

MINUTE ENTRY

Page No. 2Date March 29, 1962Case No. D-26060

The Court states that it relies upon the telephone message that this matter is being removed to the Superior Court and further states that this matter will proceed at this time.

Court and Counsel take up legal matters regarding the matter that will be heard by the Court during this proceeding.

The Court states that it will hear the matters involving the stipulation concerning child custody, dissolution of the marriage and division of property.

It is Ordered adopting the stipulation entered into between the parties regarding division of community property, assets and debts of the parties, the custody of the minor children and any other matters as set forth in the stipulation.

The Court states that it will not sign any formal order until such time as a permanent entry is received from the Federal Court, remanding the matter back to the Superior Court.

Peter Capria is sworn, examined and testifies.

Mr. Capria moves to provide the rule which motion is granted and

Theresa Lyle, Deputy Clerk.

1000

M-H

Appx R p1

CATTON 121

MINUTE ENTRY

Page No. 4 Date March 29, 1912 Case No. D-26060

Mrs. Cadan and Coyne appear
to the Court.

The Court takes the matter of Attorney
John Underhill's appointment.

Mrs. Coyne requests that in regard
to visitation that Mr. Nelson be
restrained from being present when transfer
of the minor children is made, as that
Mrs. Nelson deliver the children to
respondent's residence, which request
is denied.

The Court states that it will
hear the issue of back child support
on March 30, 1912, therefore.

It is ordered that this matter is
continued to March 30, 1912, at 9:30 a.m.

5:12 p.m. Court stands at recess.

cc:
Court Administrator
Mrs. Cadan, Esq.
Peter J. Coyne - 2701 E. Logan St. Tucson by 95716
also Gray & Page - Pima County Superior Court
Tucson, Ariz. 85701
Underhill, Clerk

STATE OF ARIZONA
COUNTY OF PIMA
I, Raymond Taylor, Deputy Clerk.
1240
By (1)

appx M-H
(RE)

MINUTE ENTRY

Page No. 3

Date March 29, 1912

Case No. D-26060

Mr. Cromwell is excused from the Courtroom.

Petitioner's Exhibit 1, being a copy of pages 3 & 4 of a partial transcript of hearing held May 8, 1910, is identified and admitted over the objection of Mr. Cajonia.

Barbara Nelson is sworn, examined and cross-examined.

Margaret Cromwell is sworn and examined.

Petitioner's Exhibit 2, being affidavit of Eric Cahoon regarding legal services rendered, is identified and admitted.

1:30 p.m. Court stands at recess until 2:45 p.m. This date.

2:53 p.m. Glenda Beckman reporting.

Both parties present.

Barbara Nelson, previously sworn, resumes the stand and is further cross-examined.

Eric Cahoon is sworn and cross-examined under the rule.

Petitioner rests.

In Response:

Peter G. Cajonia previously sworn resumes the stand and testifies.

Both sides rest.

Mayhew Tyler, Deputy Clerk.

1239

M_u
Appx 12c

EXHIBIT 5
THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

March 29, 1982

PETER J. COJANIS,

PLAINTIFF,

No. CIV 82-159-TUC-RMB

BARBARA ANN COJANIS,

DEFENDANT.

ORDER

IT IS ORDERED that this matter is remanded to the Superior Court for all further proceedings. See CIV 81-438, order dated 9/25/81; and CIV 81-473, order dated 11/6/81.

FILED IN COURT
March 30, 1982
JAMES N. CORRETT, Clerk

Mary Ann Tylor
D-66060 Deputy

EXHIBIT 5

FILED
Mar 29 10 37 AM '82
U.S. DISTRICT COURT
DISTRICT OF ARIZONA
TUCSON

STATE OF ARIZONA }
COUNTY OF PIMA } ss.

The foregoing instrument is a full, true, and correct copy of the original on file in this office.

Attested *Nov. 24, 82*
JAMES N. CORRETT, Clerk

By *Anthony J. Thomas*

Mary Ann Tylor
United States District Judge

1243

COJANIS
CARTON
RMB

APPX 13

Peter J. Cojanis
2701 E. Copper St. "B"
Tucson, Arizona 85716

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF PIMA

In re the marriage of:
BARBARA ANN COJANIS
Petitioner
vs.
PETER J. COJANIS
Respondent

D-26060
MOTION FOR
NEW TRIAL

COMES NOW the Respondent and requests the court for a new trial because of his failure to receive a fair and impartial trial created because of his self representation, with such representation necessary to defend his right to exercise his religious beliefs as guaranteed by the first Amendment to the United States Constitution and to defend against the right of the state to pass a law (ARS 25-313) which respondent alleges is unconstitutional since it denies a person contesting a divorce his equal rights.

The respondent contends that because of the foregoing holdings and the failure to obtain several lawyers to represent these holdings, he should not be penalized for his self representation and that to overcome the bias and prejudice created by his self representation he be afforded the timely demanded trial by jury which he has repeatedly requested.

1 The respondent was denied a fair trial in the following
2 ways:

3 1. The denial of a trial by jury of his peers.
4 2. The failure of the court to respect the First and
5 Fourteenth Amendment rights and stay the divorce until the
6 Arizona Supreme Court ruled on the Constitutionality of
7 A.R.S. 123-312.

8 3. The failure of the court to order an investigation
9 of the alleged child abuse as required by State Law.

10 4. The failure of the court to appoint a child
11 attorney as requested by motion on January 12, 1983 and the
12 failure of the court to rule on the motion within 60 days
13 pursuant to A.R.S. Rule 77(h).

14 5. The failure of the court to permit a fair hearing
15 on the newly discovered evidence with such hearing being cut
16 short by the court to just 10 minutes.

17 6. The failure to obtain a fair trial because of the
18 scheduling of the trial just prior to Christmas when it would
19 be difficult to have witnesses attend.

20 7. The bias and prejudicial attitude of Judge Pope
21 as to custody of the children with the judge stating, in an
22 April 19, 1983 telephone conversation, that respondent should
23 try to stop getting his children and that children didn't know
24 what they wanted and were being led like 3 year old children.

25 The respondent further contends the mind of attorney
26 face against the respondent resulted because of the

1 prejudicial attitude of the judge against his self-
2 representation and was harsh and excessive and unwarranted
3 since respondent had won the appeal.

4 WHEREFORE respondent, because of his beliefs, has been
5 forced to represent himself, requests a new trial be granted,
6 to afford him the opportunity to be judged fairly, unbiased,
7 and without discrimination before a jury of his peers.

8
9 Respectfully Submitted

10
11 May 7 1982

12 Peter J. Blum, proper person

13
14 Copies of the foregoing mailed this 7th day of May 1982 to:

15 Eric Cahan
16 705 Transamerica Title Bldg.
17 Tucson, Arizona 85716

18
19 STATE OF ARIZONA) ss.
20 COUNTY OF PIMA)

21 The foregoing instrument is a
22 full, true, and correct copy of the
23 original on file in this office.

24
25 8-18-82
26 Attended
27 JAMES E. CORRETT, Clerk

28 By [Signature] Deputy

29
30 [Signature]

~~SECRET~~

FILED
MAY 28 1985
JAMES H. GIBNEY
CLERK OF SUPERIOR COURT

1 Peter J. Cojanis
2 2701 E. Copper St. "B"
3 Tucson, Arizona 85718

4 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
5
6 IN AND FOR THE COUNTY OF PIMA

7 In re the marriage of:
8 BARBARA ANN COJANIS,
9 Petitioner.

D-28060

10 vs.

11 MOTION FOR NEW TRIAL (AMENDED)

12 PETER J. COJANIS,
13 Respondent.

14 COMES NOW the respondent and submits the following in
15 support of his motion for new trial:

- 16 1. That the order dissolving respondent's supersedeas
17 bond disregarded the rulings of the Honorable HARRY GINN, that
18 the stay would in effect until the final determination by the
19 Arizona Supreme Court was a violation of Article I Section 10 of
20 the Constitution of the United States and which Judge POPE was
21 obligated to follow.
- 22 2. That the proceedings conducted on March 29, 1982 in
23 the State Court were null and void since jurisdiction rested in
24 the U.S. District Court until the proper legal mandate was re-
25 ceived from the Federal Court by the clerk of the Superior Court.
26 A signed minute entry received on the following day, March 30,
27 1982, did not legally transfer jurisdiction to the state court.
28 Therefore the proceedings are null and void and the judgment is
29 therefore void.

3. Affidavit of Bias and Prejudice:

State of Arizona }

County of Pima }

ss

PETER J. COJANIS first being sworn under oath states:

1. That on the morning of March 30, 1982 Judge GARY R. POPE stated to the affiant in the court chambers, in the presence of ERIC CANAN, and prior to hearing evidence from the testimony of witnesses concerning attorney fees, that he was going to grant the attorney fee requested by ERIC CANAN and that he would grant fees in excess of what the attorney had requested.

2. That affiant believes that this judge's statement shows that he predetermined that matter, before hearing evidence and that the decision on attorney fees was not impartial and was made to injure the affiant.

FURTHER AFFIANT SAYETH NOT

W. J. 26, 1982
Date

Peter J. Cojanis

86
My Commission Expires

Notary Public

1 WHEREFORE because of the lack of jurisdiction, the
2 prejudicial attitude of the judge, and the violation of the United
3 States Constitution the respondent requests that a new trial be
4 granted before a jury of his peers.

5 The respondent requests that this hearing on the motion
6 for new trial be set before a judge other than Judge GARY R. POPE.

7 Respectfully submitted

8
9 Date May 26, 1982 [Signature]
10 Peter J. Canan, Petitioner

11
12 Copies of the foregoing mailed this
13 26th day of May 1982 to the law office of

14 ERIC CANAN
15 705 Transamerica Bldg.
16 Tucson, Arizona 85710

17 STATE OF ARIZONA } ss.
18 COUNTY OF PIMA }

19 The foregoing instrument is a
20 full, true, and correct copy of the
21 original on file in this office.

22 Attested 8-18-1983

23 JAMES N. CORRETT, Clerk

24 By [Signature] Deputy

25 Elin W. Lander

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

87 MAR 31 AM 10

March 29, 1982

PETER J. COJANIS,

PLAINTIFF,

No. CIV 82-159-TUC-RMB

BARBARA ANN COJANIS,

DEFENDANT.

ORDER

D 26060

IT IS ORDERED that this matter is remanded to the Superior Court for all further proceedings. See CIV 81-438, order dated 9/25/81; and CIV 81-473, order dated 11/8/81.

EXHIBIT 6
FRAUD COPY

FILED
MAR 29 10 37 AM '82
U.S. DISTRICT COURT
DISTRICT OF ARIZONA
TUCSON

A TRUE COPY of March 1982
Certified this 30th day of March 1982
by [Signature]
U.S. District Court

STATE OF ARIZONA
COUNTY OF PIMA

The foregoing instrument is a
full, true, and correct copy of the
original on file in this office.

Accepted Dec 19 1981
JAMES W. CONNOR, Clerk
By [Signature] Deputy

[Signature]
United States District Judge

COJANIS
CARMAN
RMB

App 19

THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

March 29, 1982

PETER J. COJANIS,

PLAINTIFF,

BARBARA ANN COJANIS,

DEFENDANT.

No. CIV 82-159-TUC-RMB

ORDER

(3)

IT IS ORDERED that this matter is remanded to the Superior Court for all further proceedings. See CIV 81-438, order dated 9/25/81; and CIV 81-473, order dated 11/6/81.

EXHIBIT 4

FILED

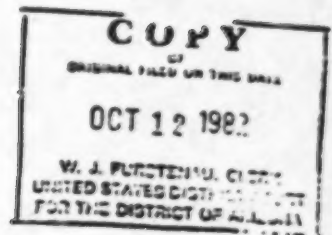
MAR 29 10 37 AM '82

U.S. DISTRICT COURT
DISTRICT OF ARIZONA
TUCSON

Mary Anne Tolley
United States District Judge

COJANIS
CANN
RMB

Appx 20



1 PETER J. COJANIS
2 2701 E. Copper St. "B"
3 Tucson, Arizona 85716
4
5

6 UNITED STATES DISTRICT COURT
7 FOR THE DISTRICT OF ARIZONA

8 BARBARA ANN COJANIS
9 Petitioner/Respondent

10 vs.

11 PETER J. COJANIS
Respondent/Petitioner

CIV 82-1335-PHX-~~SM~~ CLH

MOTION FOR DETERMINATION OF
CONSTITUTIONALITY OF ARIZONA
DIVORCE STATUTE

12
13 The Petitioner respectfully requests the Court for a
14 determination to be made as to whether the Arizona Divorce
15 Statute ARS 25-312 is unconstitutional.

16 The Petitioner also requests the Court for leave of ten
17 days in which to submit an additional memorandum of law support-
18 ing the contention that the Arizona law is unconstitutional.

19 The Petitioner contends that the Arizona Divorce Statute
20 ARS 25-312 is unconstitutional for the following reasons:

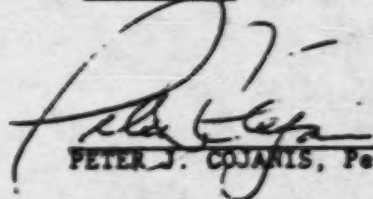
21 1. The law deprives Petitioner his First Amendment vested
22 right, the right to freely exercise his religious belief, namely
23 to maintain his marriage.

24 2. The law permits a person moving for a divorce to
25 violate the First Amendment by not having to show whether their
26 request for divorce damages society, when it is clear that the
27 exercise of such right to divorce does in fact damage society

1 and is therefore repugnant to the First Amendment.

2 In support of the forgoing the Petitioner submits the
3 attached memorandum of law with an additional memorandum to
4 follow in the near future.

5 Respectfully submitted this 12th day of October 1982.

6
7
8 
9 PETER J. COJANIS, Petitioner

10 Copies of the forgoing mailed this 12th day of October 1982
11 to:

12 ERIC CAHAN
13 705 Transameric Bldg.
14 177 North Church Ave.
15 Tucson, Arizona 85701
16
17
18
19
20
21
22
23
24
25
26
27

MEMORANDUM OF POINTS AND AUTHORITIES

In 1973, the Arizona legislature repealed the old Arizona divorce law which required sufficient cause to be shown before a person could be granted a divorce and substituted a new law whereby any person requesting a divorce could obtain one, over the objections of an opposing spouse his or her children, and in disregard to the possible social disorder which may result from the broken family.

The Arizona law repealed in 1973 stated the grounds which must be shown before any divorce would be granted. The grounds were to wit:

(1) adultery, (2) cruelty, (3) wilful desertion for a period of one year, (4) neglect for a period of one year, (5) habitual interperance, (6) conviction of a felony, (7) separation for a period of five years or more, (8) wife pregnant at the time of marriage by another man without knowledge of the husband, (9) conviction of a felony or infamous crime prior to the marriage without knowledge of the other spouse, (1) continued physical incompetence of one spouse beginning at the time of marriage.

The new statute enacted in 1973 and still in effect:

25-312. DISSOLUTION OF MARRIAGE: FINDINGS NECESSARY.

The court shall enter a decree of dissolution of marriage if it finds each of the following:

1. That one of the parties, at the time the action was commenced, was domiciled in this state, or was stationed in this state while a member of the armed services, and that in either case the domicile or military presence has been maintained for ninety days prior to filing the petition for dissolution of marriage.

2. The conciliation provisions of 25-381.09 either do not apply or have been met.

3. The marriage is irretrievably broken.

1 4. To the extent it has jurisdiction to do so, the court
2 has considered, approved and made provision for child custody,
3 the support of any natural or adopted child common to the parties
of the marriage entitled to support, the maintenance of either
spouse and the disposition of property.

4
5 The Petitioner contends that the new Arizona law enacted
6 in 1973 is a clear violation of his rights and privileges as
7 provided by the First Amendment to the United States Constitu-
8 tion since the State is forcing him to do something against his
9 wishes and religious beliefs without the required proof or any
10 showing whatsoever that he has done wrong or done anything
11 disruptive to society and therefore, the State is depriving him
12 unlawfully of his cherished vested right, his religious belief
13 to maintain his marriage, provided to him by the "free enterprise"
14 clause of the First Amendment to the United States Constitution
15 which states to wit:

16 "Congress shall make no law respecting an
17 establishment of religion or prohibiting
the free exercise thereof."

18 The Petitioner contends that this vested right as provided by
19 the First Amendment is an absolute right and cannot be taken
20 from a citizen of this country without clear and convincing
21 proof that the exercise of such belief or right is damaging to
22 society. This requirement is clearly absent from the Arizona
23 divorce law the result being that many innocent people, with
24 the meritorious desire to remain married and thus maintain
25 social order, are forced by the State to destroy the very heart
26 of society, the united family.

1 The authority in support of the forgoing is Reynolds vs.
2 United States 98 U.S. 145, 25 L. Ed. 244 where the court quoted,
3 on page 163, the definition of religious freedom and where such
4 interference may be permissible by reference to the writings of
5 THOMAS JEFFERSON the Supreme Court at page 163 states:

6 As the next session the proposed bill was
7 not only defeated, but another, "for establishing
8 religious freedom," drafted by Mr. Jefferson, was
9 passed. 1 Jeff. Works, 45; 2 Howison, Hist. of
10 Va. 298. In the preamble of this act (12
11 Henning's Stat. 84) religious freedom is defined:
12 and after a recital "that to suffer the civil
13 magistrate to intrude his powers into the field
14 of opinion, and to restrain the profession or
15 propagation of principles on supposition of
16 their ill tendency, is a dangerous fallacy
17 which at once destroys all religious liberty,"
18 it is declared "that it is time enough for
19 the rightful purposes of civil government for
20 its officers to interfere when principles break
21 out into overt acts against peace and good
22 order." In these two sentences is found the
23 true distinction between what properly belongs
24 to the church and what to the State.

25 By the forgoing authority it can be seen that the
26 Petitioner by his desire to maintain his marriage has committed
27 no "overt act against peace and good order." However, when
28 applied to his spouse it can readily be seen that her act
29 (divorce) is such that it is against "peace and good order"
30 since the broken home is widely held to be disruptive to
31 society.

32 It follows therefore that the State of Arizona, by the
33 enactment of such "no fault" divorce law, can unlawfully
34 disrupt society, by divorcing a person, against his will,
35 a person who may have done nothing offensive to society, who

1 wishes to maintain a cherished right, provided by his country's
2 Constitution.

3 It follows therefore that the State of Arizona can and
4 has by the power of its legislature enacted such no fault divorce
5 law which:

- 6 1. Unlawfully disrupts society, by divorcing a person,
7 against his will, a person who may not have done
8 anything offensive to society, who wishes to main-
9 tain a cherished right as provided by this country's
10 Constitution, a right which is beneficial to society.
- 11 2. Has provided person's moving for divorce the
12 opportunity to exercise a right provided to them
13 by the First Amendment, namely to obtain a divorce,
14 to destroy the family, to cause suffering to their
15 spouse and children, and disruption and expense to
16 society, all without having to show sufficient cause.
- 17 3. State officials have failed as mandated by law to
18 provide spouses and their children the necessary
19 protection, as provided in the First Amendment, from
20 those individuals who have committed or try to commit
21 "overt acts against peace and good order" by obtaining
22 a divorce without just cause and in violation of the
23 Constitution of the United States of America.

24 WHEREFORE Petitioner prays that the Arizona law ARS
25 Section 25-312 be declared unconstitutional.

26 Respectfully submitted this 12th day of October 1982.

27 
Peter J. O'Connell, Petitioner

G5

~~EXHIBIT 2~~ EXHIBIT 5

FILED
MAY 2 1982
BY *[Signature]*

ERIC CAMAN
JURY OF 12
1000 N. AVENUE 1000
TUCSON, ARIZONA 85724
(602) 624-1122

PCC/7616

Attorney for Petitioner

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF PIMA

In Re the Marriage of:

BARBARA A. COJAKIS,

Petitioner.

NO. D-26050

and

PETER J. COJAKIS,

Respondent.

ORDER DENYING MOTION FOR NEW
TRIAL, ORDER DENYING MOTION TO
STAY ENFORCEMENT OF JUDGMENT AND
ORDER SETTING SUPERSEDEAS BOND

THIS MATTER COMING on for hearing on Petitioner's Motion
for New Trial (dated May 7, 1982) Respondent's Motion for New
Trial Amended (May 26, 1982) and Respondent's Motion to Stay
Enforcement of the Judgment, the Petitioner not appearing in
person but appearing through counsel, ERIC CAMAN, and the
Respondent not appearing and this matter having been set for
2:00 p.m., on this date and the Respondent calling the Court and
advising the Court that he would be unable to attend the hearing

EX-237 11/874

Appx 26

66

until 2:30 p.m., then at 3:15 p.m., the Respondent still not
appearing and the Court directing for the record the status of
this case and counsel stating his objections to Respondent's
motions and the Court taking the matter under advisement:

IT IS ORDERED that Respondent's Motion for New Trial
and Motion for New Trial Amended is denied.

IT IS FURTHER ORDERED that the Motion to Stay Enforcement
of the Judgment in this particular action, the Judgment
dated as of April 19, 1982, is denied.

IT IS ORDERED setting a supersedeas bond at this time
for the Judgment entered on April 19, 1982 in the amount of
\$95,000.00 and granting a ten-day stay after a formal Order has
been signed by the Court. The stay is to enable Mr. Cajanis to
post the amount of the bond and to show good cause, if any he has,
why he did not appear this date, to request that the amount be
removed.

DOX IN OPEN COURT this 13 day of November
1982. @ 11:30 P.M.
(Signed: jvi)

Henry P. Pope
JUDGE CLARY, JR.
LENAPE COUNTY SUPERIOR COURT

STATE OF ARIZONA ss.
COUNTY OF PIMA

The foregoing instrument is a
full, true, and correct copy of the
original on file in this office.

Page 2

Attested 1-31 19 83
JAMES H. CORRETT, Clerk
By *[Signature]* 12317 12875

Appx 27

Office of the Clerk
United States Court of Appeals for the Ninth Circuit
U.S. Court of Appeals and Post Office Building
704 & Mission Streets, Rm. Box 547
San Francisco, California 94133

William B. Wherry
Clerk of Court

August 12, 1983

*Rec'd from
Jailer at 10 AM
8/15/83
Clerk of Court
allante
(415) 556-7340
8/9/83
I saw receive
from Jailer*

Peter J. Cojanis
Santa Cruz County Jail
North Bankard Street
Nogales, Arizona 85621

Re: Cojanis v. Cojanis/ Cojanis v. Druke
Nos. 82-5908; 83-1647

Dear Mr. Cojanis,

I am writing in response to your letter of August 7, 1983.

Please be advised that this court does not provide copies. The following is the address of a copy service which you may wish to contact:

Judicial Update
559 Douglas Street
San Francisco, California 94114
(415) 282-4491

The notice of appeal to the Supreme Court and petition for a writ of habeas corpus you mailed was received by this court on July 19, 1983.

Very truly yours,

Patrick Fisher
Deputy Clerk

by:

Willa J. Madden
Willa J. Madden
Law Student Assistant

*I have original
copies which
state the notice of appeal
to the Supreme Court
and the motion to enlarge
the 18th day of July 1983 NOT
THE 19th DAY
I have confirmed as true
my examining original
copies of Notice of Appeal to
Supreme Court and Motion
to enlarge as follows*

APPx 27

PETER J. COJANS
1212 EAST SEVENTH ST.
TUCSON, ARIZONA 85719

RECEIVED
PHILLIP B. WINBERRY
CLERK U.S. COURT OF APPEALS

JUL 15 1983

FILED _____
DOCKETED _____ DATE _____ INITIAL _____

UNITED STATES COURT OF Appeals
FOR THE NINTH CIRCUIT

PETER J. COJANS,
PETITIONER,

NO. _____

SANTA CRUZ COUNTY
SUPERIOR COURT and
LILLIAN FISHER A JUDGE;
THEREOF and the STATE
OF ARIZONA REAL PARTY
IN INTEREST.

PETITION FOR WRIT
OF HABEAS CORPUS

RESPONDENTS.

PETITIONER, who is presently INCARCERATED IN THE SANTA CRUZ COUNTY JAIL, NOGALES, ARIZONA, MOVES THIS COURT TO GRANT A WRIT OF HABEAS CORPUS AND TO ORDER HIS IMMEDIATE RELEASE.

PETITIONER HAS AN HONOR BOND THAT HE SHOULD BE RELEASED BECAUSE THIS VIOLATION OF FEDERAL LAW CAUSED HIS INCARCERATION.

THIS COURT HAS JURISDICTION IN CASE 82-5908 AND WITH SUCH JURISDICTION BEING VIOLATED BY THE STATE OF ARIZONA PROCEEDING IN VIOLATION OF FEDERAL REMOVAL LAW, THIS COURT HAS THE AUTHORITY TO PROVIDE THE REQUESTED RELIEF.

PETITIONER, who BECAUSE OF HIS INCARCERATION IS UNABLE TO ATTACH SUPPORTING DOCUMENTS AND RELIES ON THOSE AFFIDAVITS AND DOCUMENTS SUBMITTED TO THIS COURT ON JUNE 1, 1983 (PETITION FOR WRIT OF HABEAS CORPUS) AND ON

Peter J. Cojalis
1312 EAST SEVENTH ST.
TULSON ARIZ 85714

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

Peter J. Cojalis,

Petitioner,

vs.

Santa Cruz County
Superior Court and
Lillian Fisher a judge
thereof and the State of
Arizona, real party in
interest.

NO. _____

AFFIDAVIT OF SERVICE OF
WRIT OF HABEAS CORPUS

RESPONDENTS.

STATE OF ARIZONA }
COUNTY OF PIMA } SS:

RITA SCOPELLITTE first BEING SWORN ON OATH STATES:

THAT AFFIANT MAILED A COPY OF THE WRIT OF HABEAS
CORPUS TO THE CLERK U.S. COURT OF APPEALS: ORIGINAL AND 5 COPIES:

1 COPY TO: Hon. LILLIAN FISHER, VISITING JUDGE SANTA CRUZ COUNTY
4th FLOOR
COURTS BLDG. Pima County
111 W. CONGRESS
TULSON ARIZ 85701

1 COPY TO: R. BRUCE STERLING SANTA CRUZ COUNTY ATTORNEY

GRAND ST
NO GALLOS ARIZ 85621

SUBSCRIBED AND SWORN before me this 12th day of July 1983

Commission expires 12-15-85

Rita Scopellitte
RITA SCOPELLITTE
James J. Murphy
NOTARY PUBLIC

Peter J. Cojouis
To Santa Cruz Co Jail
Hogalee Army 55621

NO

IN THE
SUPREME COURT OF THE UNITED STATES

BARBARA A. Cojouis
Petitioner / appellee

Peter J. Cojouis
Respondent / appellant

Peter J. Cojouis
Plaintiff / appellant

William E. Drube et al.
Defendant / appellee

Peter J. Cojouis
Plaintiff / appellant
Lawrence Ray Spradlin et al

PROOF OF SERVICE

STATE OF ARIZONA } SS:
COUNTY OF PIMA }

JOHN COJOUIS after being duly sworn states:
that he mailed a copy of the jurisdictional statement
and a copy of the Motion to file in Forme Pauperis
with postage prepaid to ERIC CAVAN, RONALD W SOMMER
AND JEREN NEELEY THIS 2nd DAY OF SEPTEMBER 1983

John Cojouis
JOHN COJOUIS

Subscribed and sworn before me this — day of September 1983

My Commission Expires Sept. 8, 1983

William E. Drube
NOTARY

PETER J. COJANIS
1/6 SANTA CRUZ CO JAIL
NOGALES ARIZ 85621

IN THE
SUPREME COURT OF THE UNITED STATES

NO

Barbara A. Cojain
Petitioner / appellee

Peter J. Cojain^{v.}
Respondent / appellant

Peter J. Cojain
Plaintiff / appellant

William E. Donke^{v.}
Defendant / appellee

Peter J. Cojain
Plaintiff / appellant

vs.
Lewis Ray Spradlin et al
Defendants / appellees

On Appeal from the United States
Court of Appeals for Ninth Circuit

MOTION FOR LEAVE TO FILE IN
FORMA PAUPERIS

Appellant, Peter J. Cojain requests leave to file in forma pauperis. Petitioner has asked and was granted leave to appeal in Forma Pauperis in case MISC - 01577 U.S. District Court, Phoenix, ARIZ. In a related case being appealed to the U.S. Court of Appeals. This leave was granted by U.S. District Court judge William P. Copple ON JULY 27, 1983. Petitioner attaches the statement showing similar conditions exist that would require a granting of leave to file in Forma pauperis in this case. Attached pray granting Forma Pauperis. DATE August 31, 1983 Peter J. Cojain

STATEMENT IN SUPPORT OF MOTION FOR LEAVE
TO APPEAL IN FORMA PAUPERIS

Appellant Peter J. Cajanis who does not have a notary available or facilities for typing and photocopying available because of his incarceration in a Small State/County jail in Nogales states the following to be the truth.

1. That appellant has been incarcerated by the State in an attempt to defeat his appeal of the Arizona "no fault" divorce Statute.
 2. That appellant has about \$100.00 cash in the bank but owes numerous bills and because of his incarceration is unable to make arrangements to borrow such money to pay his appeal docket fee to this Court at the present time.
 3. That appellant has property which is "tied up on appeal" by a supersedeas stay and he cannot sell such property or borrow from it.
 4. That appellant believes he will have money to pay his appeal in full at a later date and promises to do so as soon as it is possible.
 5. That appellant has been granted leave to appeal in a related case Misc 015771 Phy District Court.
 6. That similar conditions exist that again would warrant leave to appeal in forma pauperis.
- WHEREFORE appellant requests to be permitted to appeal in forma pauperis.

all the foregoing is the truth

DATED THIS 31ST DAY OF AUGUST 1983

Peter J. Cajanis

No Notary available because of jail.